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BY

Jeremiah F. Connor

As Commissioner under section 8 of the Executive Law,
known as the Moreland Act, in Relation to the
Management and Affairs of the State Industrial
Commission

SUBMITTED TO THE GOVERNOR, NOV. 17, 1919

MILES M. DAWSON
Counsel and Actuary

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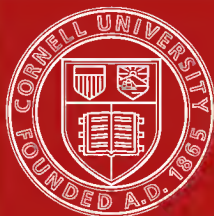


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INVESTIGATION OF THE MANAGEMENT AND AFFAIRS OF THE STATE INDUSTRIAL COMMISSION

HONORABLE ALFRED E. SMITH, *Governor of the State of New York, Executive Chamber, Albany, New York:*

DEAR SIR.— The following is a complete report of my investigation under Section 8 of the Executive Law of the management and affairs of the State Industrial Commission. The investigation was commenced on February 21, 1919, pursuant to my designation by you for such purpose.

A preliminary report of my investigation of direct settlements under the Workmen's Compensation Law between the injured men and women of the State and insurance carriers, was made by me on March 26, 1919. A report was also made to you on May 27, 1919, in relation to the management of the State Insurance Fund. As to the latter report, the State Industrial Commission filed with your Excellency an answer under date of July 9, 1919. Subsequently, Miles M. Dawson, of No. 141 Broadway, New York City, was appointed Counsel and Actuary in connection with the whole investigation, and public hearings were held in New York City commencing September 17, 1919, and ending October 22, 1919. At these hearings 2,762 pages of testimony were taken and 290 exhibits placed in evidence. A complete copy of the testimony is submitted herewith. The scope of the investigation is indicated by the range of subjects dealt with in this report.

DIRECT SETTLEMENTS UNDER THE WORKMEN'S COMPENSATION LAW

In the report filed with you March 26, 1919, I called attention to grave injustices which had resulted from chapter 167 of the Laws of 1915, which amended the Compensation Law and permitted settlements of compensation between the employer and the employee. The conditions revealed by this report were such that when the report was transmitted by you to the legislature, not a voice was heard in the State of New York in support of the direct settlement plan. The legislature passed by unanimous vote and

submitted for your approval an act requiring the Industrial Commission to hold a hearing in every compensation case. This act was signed by you and is now chapter 629 of the Laws of 1919. While direct settlements are still permitted under this statute, it is only for the purpose of expediting payments, with a hearing by the Industrial Commission on each case before the same is closed.

My preliminary report was made as the result of a partial examination of 1,000 agreements or direct settlements taken from the files of the State Industrial Commission in chronological order for the month of October, 1918. Since that time I have completed an investigation of all of these 1,000 cases. Rehearings have been held by the State Industrial Commission in about 400 of the cases. Many of the claimants could not be located and many were found to have been fully compensated. Out of the 1,000 cases, however, there were 114 in which the State Industrial Commission made additional awards.

In these 114 cases the amounts paid under direct settlements by the insurance carriers (which included stock companies, mutuals and self-insurers, but not the State Fund which made no use of direct settlements) amounted to \$13,712.40. The Industrial Commission, as a result of the rehearings, awarded additional compensation in these cases amounting to a total of \$52,279.84. Attached hereto is an exhibit marked "A," giving a list of the 114 cases with the claim number, the names of the parties interested, the amount paid under direct settlement, and the additional compensation awarded by the Commission in each case. The underpayment averaged about \$450.00 per case.

During the year ending June 30, 1918, the Commission approved 34,659 direct settlement agreements for the payment of compensation, and William C. Archer, the Deputy Commissioner in charge of Workmen's Compensation, testified that, if the same percentage as in the 1,000 cases held good throughout the year, the total underpayments for one year alone would amount to \$1,400,000. Upon the same basis the underpayments since the agreement law became effective in 1915, covering approximately 140,000 cases, would reach a total of \$5,700,000. The cases

mentioned in the attached exhibit all arose in the Metropolitan District. I reviewed a large number of cases in the up-state districts also and found conditions to be nearly as bad.

Your investigation, therefore, establishes beyond question that the direct settlement law enacted by the legislature in 1915, has been the means of defrauding injured working men and women of the State out of at least \$5,000,000. The complete investigation of the 1,000 test cases and the magnitude of the injustice revealed thereby, fully justifies your criticism of the direct settlement law, and demonstrates the wisdom of the change in the statute made this year at your request. This change has now taken effect and the Industrial Commission is conducting hearings in all cases without the slightest trouble. The evil of the bargaining between the insurance company and the claimant has been completely abolished. In addition, as the result of a letter from you, the Commission in endeavoring to investigate and rehear, when necessary, every direct settlement entered into since the law went into effect in 1915.

ADMINISTRATION OF WORKMEN'S COMPENSATION LAW GENERALLY

The outstanding circumstance established by my investigation and by the evidence produced at the public hearings, is the injustice and frauds practiced upon the injured employees of the state under a law enacted for their special benefit. Along almost every line of inquiry in addition to direct settlements, conditions have been found and practices have grown up, as a result of which the victim of the industrial accident, coming before the Industrial Commission for relief, has been the one to suffer.

Final Adjustment Cases

The Compensation Act does not contemplate anything like a "final" determination. On the contrary, the jurisdiction of the Commission is made continuing over every case, and the Commission is empowered to reopen and reconsider the same at any time upon the request of any party, or upon its own motion. It was also the intention of the Act to have compensation paid periodically in the same manner as wages. There is a provision for "lump sum" settlements by commuting periodical payments

of compensation into one sum "when in the interest of justice." Obviously it was the intention that unusual care was to be exercised before the claimant was to receive compensation in one lump sum.

Notwithstanding the plain intent of the statute, the Commission established the practice of making awards in one lump sum to cover all future reduced earnings. For this purpose the final adjustment calendar was established. This calendar is held one day each week and is usually presided over by Deputy Commissioner Thomas F. Curtis. Cases reach the calendar at the request of claimants or by direction of the Commission itself.

By an amendment to the Act which became effective July 1, 1917, the Commission was authorized to make specific awards for partial loss of use of hand, arm, foot, leg and eye. This to some extent legalized the final adjustment practice and increased the number of cases. The amendment, however, did not contemplate any departure from the original intent which was to make payments of compensation periodically instead of in one lump sum.

Soon after my investigation started, I was informed both from within and without the Commission, that many claimants were underpaid through the final adjustment of their cases. I thereupon examined all of the final adjustment cases for the months of November and December, 1918, and the month of January, 1919. Eighty cases were selected, in each of which the claimant was examined by Major John E. Conboy, M. D., United States Army. As a result of this examination and investigation, forty-five cases were placed upon calendars before the full commission for rehearing. Twenty-five of these cases were found to have been fully compensated, and twenty were found to have been underpaid. The total amount awarded on the final adjustment of the 20 cases before a deputy commissioner was \$29,618.67. The total amount awarded on the rehearing of these cases, including the present value of an award for total disability in two cases which are still open, amounted to \$52,086.97. The claimants in these cases were underpaid, therefore, in the sum of \$22,468.30, an average of more than \$1,100 per case.

The following table is a complete statement giving the result of rehearings in these 20 cases:

Statement Showing the Result of Rehearings of Cases in Which There Had Been a Final Adjustment Before One of the Deputy Commissioners

Case No.	Claimant	Employer	Insurance carrier	Amount of final adjustment	Amount awarded on rehearing
29221	David O'Keefe	Joseph A. Reid, Inc. . .	Maryland Cas. Co. . .	\$3,818 00	*\$10,232 04
300736	Peter Mora	American Ry. Express. .	Self	215 41	315 41
72893	Peter Steinmuller . . .	National Sceptic Lbrtry .	Maryland Casualty. .	2,397 00	2,865 85
300761	James Lawler	Republic Storage Co. . .	U. S. F. & G. Co. . .	213 32	513 32
275480	Henry C. Haviland. . .	Atlantic Amusem't Co. .	U. S. F. & G. Co. . .	275 00	314 03
200659	George Antochi. . . .	Zinser & Co.	U. S. F. & G. Co. . .	75 00	225 00
56817	Peter Koldozi	L.H. Wood Const. Co. .	U. S. F. & G. Co. . .	2,874 51	*9,308 20
49677	Helen Doyle	William H. Perry. . . .	Actna Life Ins. Co. .	292 26	1,199 64
53636	Thomas P. Ennis	Richard Godfrey	U. S. F. & G. Co. . .	1,500 00	2,334 89
105848	Thos. Parker	Young & Metzner	U. S. F. & G. Co. . .	1,925 00	2,481 85
43785	Joseph Alexander . . .	Thos. J. Byrne Co. . . .	Allied Mutual.	397 50	800 00
68426	William Nichols	Charles D. Strong. . . .	Maryland Cas. Co. . .	1,970 05	3,123 26
105564	Millie Novelli	Cimotti Unhairing Co. .	U. S. F. & G. Co. . .	958 53	1,182 18
105834	William Pasta	William Garrison Co. . .	Royal Indem. Co. . .	1,739 53	2,252 61
58818	William Kennedy	D. Auerbach & Sons. . .	Allied Mutual.	1,180 82	1,689 46
101967	Joseph Lake	E. Ehrlich.	U. S. F. & G.	1,488 35	2,111 09
275511	Charles H. Irese	American Railway Ex. . .	Self	2,755 00	3,599 86
101210	Louis Landau	Mutual Ex. & Ref. Co. .	Allied Mutual.	1,027 50	1,626 67
101374	Wm. Lasher	Firneno Brothers. . . .	Royal Indem. Co. . .	3,480 00	4,736 00
101013	John Lukod.	Waring Hat Co.	Allied Mutual.	1,035 86	1,175 61
				\$29,618 67	\$52,086 97
					29,618 67
				Increased	\$22,468 30

* Indicates the present value of an award for permanent total disability and does not represent the amount actually awarded on the rehearing, as these cases were merely reopened and no final determination made.

In case No. 29221, the claimant, David O'Keefe, who resides at 916 East 214th street, New York City, was injured in January, 1917, in such manner that both legs were fractured above the ankles. Up to December, 1918, this claimant had received \$1,500, in bi-weekly instalments, and at that time his case was settled before Deputy Commissioner Curtis upon a final adjustment award of \$2,300. The settlement was made upon the basis of 205 weeks, the amount fixed in the compensation law for loss of use of one foot. As a matter of fact, this claimant never recovered from his injuries, both ankles are stiffened and inflamed, and he is totally and permanently disabled for the remainder of his life. When he had his day in court before the deputy commissioner, he was paid for the loss of one foot only and notified that his case was closed. The fact that his other foot was per-

manently disabled and that he would never work again during the remainder of his life was entirely ignored. The amount he received in a lump sum covered bi-weekly payments to some time in the year 1921. If the case had not been reopened, Mr. O'Keefe, after that time had expired, would have been left to starve or become an object of charity. There was no circumstance which called for the payment of a lump sum to this claimant and this is true of most of the final adjustment cases. He should have continued to receive bi-weekly instalments of compensation as long as he remained disabled, which, in his case, would have been for the rest of his life. If a settlement was to have been made, however, he should have been awarded \$10,232.04, the present value of an award, in his case, for total permanent disability, instead of the sum of \$2,300, awarded by the deputy commissioner.

In the Peter Steinmuller case, the claimant had part of the hand amputated, ankylosis of the elbow, and complete atrophy of all the muscles of the arm. There was nothing left but a bone. Even the muscles of the chest had wasted away because of the complete loss of use of the arm. In this case the award before the deputy commissioner amounted to about 80 per cent of the loss of the arm. When the case came before the full commission, the chairman, the late John Mitchell, promptly reopened the case and awarded for the full loss of the arm, a difference of \$466.85. No one but the claimant himself will ever appreciate how much this difference meant to him.

In the case of William Nichols there was an amputation of the right leg below the knee and serious injuries to the left leg, the left arm and head. In this, as in the following case, all the injuries were minimized by Dr. Henry B. Boyle, assistant medical adviser of the Commission, and the claimant received an award of 205 weeks for the loss of one foot. The other injuries were forgotten on the final adjustment, except that the claimant was told that he might come back some time in the future if his head bothered him. There was no chance to minimize the injury to the right foot, because it had been amputated.

Even when the claimant came back a second time the injuries to the left leg and arm were again overlooked, but on the rehear-

ing he was awarded \$1,153.20 additional compensation for such injuries.

Another aggravating case was No. 49677, in which the claimant was Helen Doyle, residing at 33 Madison street, Brooklyn, N. Y. This woman received an injury to the arm and shoulder on May 29, 1918. She was examined by Dr. Raphael Lewy, chief medical adviser to the Commission, on July 16, 1918, who made a report fully describing the injuries. She was again examined on September 16, 1919, by Dr. Boyle and he made a report in which the injuries were minimized. The case came before Deputy Commissioner Curtis for final adjustment on November 7, 1918. Up to that time she had been paid \$142.26. He gave her \$150.00 more without having another medical examination. When the case came before Commissioner Sayre for rehearing on June 17th of this year, an award was made for 50 per cent of the arm, amounting to \$1,199.64. This working-woman had been underpaid by nearly \$1,000.

When the attention of Deputy Commissioner Curtis was called to the Helen Doyle case on the witness stand, his excuse was the fact that he did not have sufficient time to handle the cases properly. When his attention was called to the necessity of considering the case from the standpoint of Helen Doyle, he testified that there were a great many Helen Doyles. I do not accept this explanation. Weeks, and sometimes months, are taken by the Claims Division of the Industrial Commission to get the claimant's case in shape for a hearing before the Deputy Commissioner. It is inconceivable that the Deputy Commissioner cannot take a few minutes to properly examine the papers, properly examine the claimant and see that he or she gets full justice.

In my opinion, one reason for the underpayment in the final adjustment cases is pure carelessness on the part of the Deputy Commissioner, and I believe it is also due to the fact that the Deputy Commissioner is either unable or unwilling to resist the persuasion of the representatives and physicians employed by the insurance carriers.

I made a further test of the final adjustment cases by a personal examination of the papers in all cases which came before Deputy Commissioner Curtis during the month of February,

1919. Many of these cases also appeared to be grossly underpaid. Some action should be taken by the Commission to determine how many other cases exist, in order that the claimants may be fully protected. I have also examined many cases in which the awards were plainly excessive.

The administration of the final adjustment calendar has not only been contrary to the statute, but has been a travesty on justice.

There appears to be no systematic relationship as between the medical advisers of the State Industrial Commission and the Deputy Commissioner. An examiner employed by the State Industrial Commission has made an analysis of 345 final adjustment cases to determine the relation between the amount awarded and the amount recommended by the Medical Division. It was found that 19 of these cases were settled without any examination by the Medical Division, whatever. In 170 cases, the physician making the examination merely stated the nature and extent of the injury and made no recommendation as to the proportionate loss of use or amount of compensation, leaving the matter entirely to the discretion of the Deputy Commissioner. In 155 cases the Medical Division made a specific recommendation. Out of these 155 cases the Deputy Commissioner awarded a smaller amount of compensation in 87 cases, and awarded more than the amount recommended by the Medical Division in 23. In about half of the cases in which less compensation was awarded the reduction was substantial; the reduction in the other cases was due to actuarial computations. In 45 cases the Deputy Commissioner followed the exact recommendation of the Medical Division; in 17 cases the examiner reported that the claimant did not receive compensation for all of the injuries described in the papers. It also appeared that in 73 cases additional compensation should be awarded because of what is known as the "Phoneville decision," under which the Commission can award compensation for partial loss of use up to the rate of \$20.00 per week, whereas in the 73 cases the award had been limited to \$15.00 per week. There is no reason why the Medical Division should make a specific recommendation in part of the cases and leave the

others to the discretion of the Deputy Commissioner. Much criticism would be avoided if the same rule was followed in all cases.

State Insurance Fund Cases

In determining claims against the State Fund, the Commission had adopted what is called a "Facts Agreed Calendar." Under this a representative of the State Fund and an examiner employed by the State Industrial Commission review the papers and determine what compensation the claimant should receive, after which the case goes on a calendar and an award is made without giving the claimant an opportunity to be heard. The State Fund has many special groups, some made up of individual employers, and others made up of small groups of employers, including the Wynkoop group, from which Mr. G. W. Wynkoop, an insurance broker, receives 50 per cent of all dividends. It is evident that the employer in these special groups, or his representative, is directly interested in keeping down the compensation.

Several of these special groups are in the western part of the State. I personally examined the special group cases in the Buffalo office of the Commission for the month of December, 1918, and January, 1919. The conditions were such that I requested Commissioner James M. Lynch to rehear a large number of these cases. These rehearings were held at Buffalo in September, 1919. In 11 cases, in which the claimants had been previously awarded a total of \$2,742.14, Commissioner Lynch at this rehearing awarded a total of \$9,579.91. The following is a statement showing the result of these cases in detail:

Case No.	Employee	Employer	Pre-viously awarded	Subse-quently awarded
B-12146	Jacob Braun.....	Pratt & Letchworth Co.....	\$27 50	\$103 50
B-11963	John Dworka.....	U. S. Hame Co.....	17 50	440 00
B-12036	Hence Howard.....	Atlas Steel Csting Co.....	192 50	1,380 00
B-12313	James J. Dunn.....	International Railway Co.....	135 00	2,440 00
B-12023	J. Bannister.....	Wickwire Steel Co.....	150 00	570 00
B-12603	G. Giallonbardo.....	Wickwire Steel Co.....	200 82	221 60
B-11925	W. E. Swanson.....	Art Metal Const. Co.....	787 76	1,084 58
B-12579	Peter Molmar.....	Wickwire Steel Co.....	113 56	143 56
B-11999	Joe Katsinski.....	Lackawanna Steel Co.....	237 50	1,025 00
B-11965	S. Kozlowski.....	Atlas Steel Cast. Co.....	120 00	545 00
			<u>\$2,742 14</u>	<u>\$9,579 91</u>
Amount of underpayment in the above cases.....				\$6,837 77
Average underpayment per case.....				621 65

In the case of James Dunn, who was employed by the International Railway Company, and who had received \$135.00, the award was increased to the sum of \$2,440.00. In addition to the 11 cases set forth in Exhibit "C," there were about an equal number which are still under investigation. Underpayments of this sort would amount to at least \$5,000.00 per month, or \$60,000.00 per year, in cases confined entirely to the Buffalo office of the Commission.

I have recommended, and the Commission has directed, that all cases against special groups in the State Fund since July 1, 1917, be investigated and reviewed. In these cases, the employer is usually represented personally, instead of allowing the case to be handled by the State Fund. Commissioner Lynch has directed that, in future, a State Fund representative be present at the hearing to protect the claimant. In view of the close relationship between State Fund representatives and the representatives of the special groups, I would go further and recommend a change in the representatives of the State Fund in the Buffalo office. I also recommend that claimants be given a hearing in every case where the employer is in a special group, and so directly interested in the result.

Two of the cases mentioned in the foregoing tabulation were against employers in the Wynkoop group. Rehearings were held by Commissioner Henry D. Sayre at my request in a number of other Wynkoop cases arising in the New York office. The total underpayment in seven cases arising against the Wynkoop group amounted to \$1,747.05. The following table gives the result of rehearings in the State Fund cases against employers having the Wynkoop service:

Case No.	Employee	Employer	Pre-viously awarded	Additional award
B-11963	John Dworka.....	U. S. Hame Co.....	\$17 50	\$422 50
B-11925	W. E. Swanson.....	Art Metal Construction Co.....	786 76	297 82
F-36371	Mike Pachilis.....	Russell, Birdsall & Ward Bolt & Nut Co.....	12 17	153 83
69100	Joseph Rushack.....	Brooklyn Eastern District Term'l.	21 67	8 33
201440	C. Blair.....	Russell, Birdsall & Ward Bolt & Nut Co.....	345 00	172 50
52643	Daniel Flemming.....	I. G. Johnson Co.....	41 56	67 53
375188	Wasilowski.....	Brooklyn Eastern District Term'l.	26 92	624 54
	Totals.....		\$1,251 58	\$1,747 05

The average underpayment for the 7 cases above mentioned amounts to approximately \$250.00 per case

Complaints came to my attention of delay in the handling of State Fund cases, and to determine this question I made a computation showing the time taken to handle the cases which appeared on the calendar for May 16, 1919. There were 54 cases, of which 35 appeared on the regular calendar and 19 on the facts agreed calendar. The result was as follows:

Regular Calendar — 35 cases	
Average time between the date of accident and date the case first appeared on the calendar	77 days
Average time between the date claim for compensation was filed and date case first appeared on calendar	27½ days
Facts Agreed Calendar — 19 cases	
Average time between date of accident and date case first appeared on calendar	57 days
Average time between date claim for compensation was filed and date case first appeared on calendar	20½ days

Much of this delay has now been avoided by reforms instituted in the Claims Department of the State Fund and the Claims Department of the Commission as a result of this investigation.

One of the principal purposes of the State Insurance Fund was to assure full and prompt payment of compensation. Under the present management, particularly as to the special groups, the State Fund has been lax in carrying out this provision of the statute.

State Insurance Fund Graft Cases

While my investigation was in progress, Samuel Epstein, an interpreter employed by the State Industrial Commission, was indicted for attempting to obtain money from a claimant who had received an award by way of a final adjustment against the State Fund. My attention was also called to the case of Samuel Cavoli, of Brooklyn, a boy 18 years of age, whose mother had made a complaint that her son had been compelled to pay \$200.00 out of the money received by him from the State Fund. Although this boy later retracted and the matter was dropped by the management of the State Fund, the circumstances were very suspicious. At the same time, I learned that Barney Wayneck, who had once been employed by the State Industrial Commis-

sion, but now represents one of the insurance companies, was constantly present at the office of the Commission, although he had little business there for his company, and was known to have large sums of money on his person at all times. These conditions, and rumors of graft apparently generally known, led me to make an investigation to determine whether a system had been established under which claimants were being defrauded and graft was being collected by employees of the Commission. This investigation was not confined to the State Fund alone, but extended to all insurance carriers.

By taking a list of final adjustment cases, I soon discovered that certain employees of the State Fund had a well-defined wholesale system of graft under which the claimants were being defrauded of large sums of money. My investigation disclosed that arrangements were made with the claimants by Barney Wayneck and Samuel Epstein. After a few claimants had admitted payment of money and had identified Wayneck and Epstein, it was easy to trace the other cases by obtaining the cancelled checks from the office of the State Treasurer in Albany and examining the endorsements on the back. The following persons were found to be involved in this system of graft:

William A. Herman.....	Claim adjuster, State insurance fund.
Harry Jacobson.....	Claim adjuster, State insurance fund.
Frank J. Elwood.....	Underwriting clerk assigned to claims bureau, State insurance fund.
Abraham Bernstein.....	Chief accountant, State insurance fund.
John B. Genovese.....	Interpreter, State insurance fund.
Samuel Epstein.....	Interpreter, State Industrial Commission.
Barney Wayneck.....	Former employee, State Industrial Commission.
.....	Medical adviser (name withheld because now deceased), State insurance fund.
Tito Pacelli.....	Secretary and treasurer, International Tunnel Workers' Union.

As soon as it became known that I had obtained evidence of this graft, William A. Herman made a complete confession. As a result of this confession and the evidence produced at the public hearings, Abraham Barnstein, Harry Jacobson, Frank J. Elwood and Barney Wayneck have been indicted, and Samuel Epstein has pleaded guilty to the indictment which had previously been obtained.

The system employed was to have Herman or Jacobson give a list of cases to Wayneck, Epstein, or Pacelli, who would call upon the claimants and induce them to give up part of the money which they were asking for, from the State Fund. In most of the cases representations were made that only through them could the claimant receive a sufficient award. In others, threats were made that the cases would be held up unless they agreed to split the money. In a few the claimants, working with the ring, actually perpetrated frauds on the State Insurance Fund. Neither Wayneck nor Epstein ever appeared with claimants, but Pacelli in most cases did appear before the deputy commissioner.

After the arrangement had been made with the claimant, the case was brought for final adjustment before a deputy commissioner, in nearly every case, Thomas F. Curtis, to whom this calendar was assigned. After the award was made, the claimant would be directed to return on a certain day and obtain his check from the cashier of the State Industrial Commission. Upon that day, the claimant would be identified by either Herman or Jacobson, and would receive his check.

In cases handled by Wayneck the claimant was usually met in the hall and Wayneck cashed the check then and there out of money carried in his pocket. The check, after being endorsed by the claimant, usually contained a number of fake endorsements and was finally deposited by one of Wayneck's friends. Most of them went through one Aaron Fertig, with the assistance of one Louis Landau, who endorsed Fertig's name and deposited the checks in a bank to Fertig's account. Fertig would then obtain the money and pay the entire amount over to Wayneck, who in turn would distribute the proceeds usually between himself, Herman and Jacobson.

In cases handled by Epstein most of the checks were cashed by Isidore Herz, a private banker, located at East 34th Street. It is important to note that, after Epstein was indicted and dismissed by the Commission, he obtained employment with this private banker and continued to operate as a part of the ring, in connection with Herman and Jacobson. One case which occurred subsequent to his indictment was that of Benjamin Asserson, of 884 Flushing Avenue, Brooklyn, New York. The claimant was

awarded \$3,000. Epstein cashed the check at the bank of Isidore Hers and took \$1,000 from the claimant, which he divided with Herman and Jacobson.

Elwood, Bernstein, Genovese and the medical adviser operated independently of Wayneck and Epstein, but all of them divided with Herman and Jacobson.

This system of graft sprang up early in the year 1918. The grafting ring was so confident that the graft continued even while the State Fund and the State Industrial Commission were under investigation. About 150 claimants were held up in this manner for a total of probably about \$50,000. In some cases the graft was petty, but in other cases it was as high as \$1,000. No lower or meaner form of graft has ever been disclosed. Some of the cases are particularly shocking.

In Case No. 100,304, the employee, Thomas C. Loe, was killed on February 23, 1918, while in the employ of the Underpinning & Foundation Co., leaving a mother, who claimed to be dependent on his earnings for support. The mother, Anna Loe, residing at 502 West 141st Street, New York City, made a claim for compensation, but was informed that she was not entitled to an award by reason of the fact that she did not live with her son and he had not contributed sufficiently to her support. Subsequently, Herman arranged through a brother of the deceased to make up a case of dependency, frame up an application for a lump sum, and obtain an award for death benefits. In consideration of this, Herman, Jacobson and an employee in the claims department of the State Industrial Commission were to receive one-third of the award. One investigator was sent out with instructions to make a favorable report on the question of dependency; and another to make a favorable report upon a proposed purchase of real estate, which was to be the basis of the lump sum award. Both of these reports were made, the case was brought before Deputy Commissioner Curtis, and, without any testimony being produced, an award was made to the mother and sent to the actuary to be computed into a lump sum. Under the law, there is no authority whatever for paying compensation to a mother in a lump sum, because the award only extends during such period as she remains a dependent. For this reason the actuary was compelled to compute the

award as a life annuity; and before doing so, he insisted that the claimant should be medically examined. The medical examiner of the State Fund made this examination and reported the claimant to be in good health. The claimant eventually received \$3,400, giving \$650 to her son, which amount was divided between the medical adviser of the State Fund, Herman, Jacobson and an employee in the claims bureau of the State Industrial Commission. The name of the latter employee is not disclosed because the payment to him has not been corroborated.

In the case of Leoniad Springstein, of Elmhurst, L. I., who was injured while in the employ of Johnson & Bernston, at Corona, Long Island, Elwood approached the claimant with the proposition that he would get him an award in the sum of \$3,500 if the claimant would pay Elwood \$1,000. To assist in accomplishing this result, Elwood went to the employer and obtained a new report of the accident, increasing the wages of the claimant from \$3.25, as first reported, to \$4.35 per day. When the case came before the deputy commissioner it was adjusted for the exact amount promised by Elwood, \$3,500. The claimant had lost most of his hand by amputation. His wounds had not entirely healed, because of which he was unable to sign his name to the check. The arrangements were therefore made through a woman friend of his, Elizabeth Watjen. She took the check to a bank in the presence of the claimant and Elwood, obtained \$1,000, which she gave to Elwood, and which he in turn divided with Herman and Jacobson.

In other cases, the claimants were trained as to what they should do and say when examined by the medical advisers of the Commission, and in this manner received awards in excess of the amount provided by law.

It seems almost impossible that this extensive system of graft should have existed since early in 1918 without having been detected by those charged with the administration of the Fund. The gift of a \$3,400 automobile to the wife of the manager, the generally loose management, the fact that charges of graft had been repeatedly suppressed, encouraged the grafting ring to continue and grow bolder. And the whole picture of mismanagement of the State Fund and the easy way in which explanation of alleged wrong-doing were accepted, lead to the conclusion that

there was little desire to learn the exact truth and weed out the grafters.

In making my examination of the final adjustment cases against stock companies, mutuals and self-insurers, I endeavored to find out whether any system of graft existed on the part of employees of such insurance carriers. Out of about 100 cases, one claimant testified that he had paid \$5.00 or \$10.00 to a clerk in the office of one of the insurance companies for the purpose of having his check cashed. One other case was brought to my attention by Samuel Epstein after the public hearings were closed, in which he stated that he had obtained money from a claimant and paid part of the same to the representative of an insurance company. Both myself and Mr. Dawson made diligent inquiry on this subject. There are doubtless isolated cases in which agents of insurance companies have received money from claimants. I am satisfied, however, that no organized system of graft exists against other insurance carriers.

Runners

One evil intended to be obviated by the Workmen's Compensation Law was the ambulance-chasing lawyer and the contingent fee under which the injured employees received only a small part of the amounts recovered for personal injuries. Strange as it may seem, a system of "runners" has grown up under the administration of the compensation law, resulting in conditions as bad, if not worse, than under the previous system. A large number of persons in New York City, called "runners," are engaged in the business of hunting up claimants and appearing with them before the State Industrial Commission. This condition is especially prevalent among Italian claimants and others employed along the waterfronts in Greater New York. In many cases, the claimant, acting in concert with the runner and a physician, perpetrates a fraud upon the employer or insurance carrier. Claims for minor injuries are withheld for several months, with the expectation, almost always realized, that, when the case comes on for hearing, an award of compensation will be made to the date of the hearing. This means a larger sum for the claimant, and that is all paid in one sum, resulting in more to divide

with the "runner." In some cases, claimants have been known to report accidents of this character against as many as three different employers. One of these runners, Alfred San Dominick, testified that his income from this source amounted to about \$5,000 per year. It is generally believed, however, that not only he, but numerous other runners, receive much in excess of \$5,000 per year. Another "runner" is Tito Pacelli, already referred to in connection with State Fund graft cases. Pacelli is the secretary-treasurer of the International Tunnel Workers' Union, of which Deputy Commissioner Thomas J. Curtis is president. He receives a salary, in return for which he is expected to represent claimants who are members of his union before the State Industrial Commission. Notwithstanding the receipt of this salary, he testified that he also receives "presents" from members of his union for whom he appeared, and that he represented claimants who were not members of the union and usually expected to receive 10 per cent of the amount awarded. He admitted that he had appeared in a number of State Fund cases, furnished him by Herman, and that the fees obtained in these cases were divided with Herman and Jacobson. He also testified, referring to Mr. Curtis, "I told him sometimes that I would get some money from the men." (p. 2401.)

Administration of Up-State Offices

The Industrial Commission maintains branch offices at Albany, Syracuse, Rochester and Buffalo, each in charge of a Deputy Commissioner. Most of the cases are disposed of in the up-State offices without reference to a member of the State Industrial Commission, or to the Second Deputy Commissioner who is in charge of workmen's compensation. An examination of the cases in the Albany office, made by the Industrial Commission itself, revealed many instances in which the cases were wrongfully disallowed. This included a number of death cases. The various offices have different views as to the interpretation of the workmen's compensation law, and, while these are reconciled in some cases by conferences at which doubtful cases are discussed with a member of the State Industrial Commission present, there is need for further supervision of the up-State offices. I am of opinion

that every case disallowed by a Deputy Commissioner, whether in an up-State office or at the main office in New York City, should be reviewed either by the Second Deputy or by a member of the State Industrial Commission.

No up-State office has ever received a sufficient appropriation to employ a medical adviser, and a practice has grown up, under which the medical adviser designated for some of the up-State offices receives his salary in the form of a fee paid directly by the insurance carrier in each case. In addition, in some of the offices, the medical adviser is employed by insurance companies as the attending physician for some of the claimants. I very strongly urge that the Commission be given sufficient appropriation to employ a medical adviser for each up-State office, who will be under no obligation to the insurance companies.

Death Cases

The Compensation Law became effective July 1, 1914, and for the first five years ending July 1, 1919, the Commission has received claims for compensation in 6,757 death cases. About 20 per cent. of these cases were disallowed. The average award in the remaining cases is \$4,000, the total for the five years amounting to more than \$21,000,000. These figures demonstrate the importance of this branch of the work. These cases involve difficult questions of law and close questions of fact. The cases in the New York office are heard at the present time by Deputy Commissioner Archer, who, in addition, has entire charge of the Compensation Bureau for the whole State. It is my conclusion that an additional Deputy Commissioner should be authorized by the legislature, whose entire time should be devoted to the handling of death cases, and who should supervise the up-State cases as well as the ones arising in the New York district.

Procedure

Upon examining the files of the Commission in relation to individual claims, I found that much delay was entailed in getting the cases on the calendar because of the overformal insistence that all blanks provided by the Commission, both for the employer and employee, should be filed with the case before it

reached the calendar. I advised the Deputy Commissioner in charge of the workmen's compensation that much delay could be avoided if the claimant were given a hearing as soon as he filed a claim for compensation. This practice has now been adopted and the Commission has even gone further and now places cases on the calendar where the report of accident indicates a compensatable case, though no claim has been filed. This has been found to avoid much delay and works to the general satisfaction of all parties. It also operates as a check on the employment of "runners," who have consistently delayed the filing of claims for compensation.

I found many cases in which the claimant appeared to be dissatisfied with the decision in his case and, in a great majority of these cases, his letter of complaint or his application for rehearing was passed upon and denied by a claims examiner without reference to a Deputy Commissioner or to a member of the Industrial Commission. A system should be adopted under which complaints of this character should have careful attention.

Statute of Limitations

Section 28 of the Workmen's Compensation Law provides that the right to claim compensation shall be forever barred unless the claim is filed within one year after the date of the accident, or in case of death, within one year after the date of death. A great many cases have been called to my attention in which the claim was barred because of this limitation. In numerous cases the reason for the delay was the fact that the claimant returned to work and was receiving his usual wages. Quite a number of cases were eye injuries in which total blindness developed more than a year after the accident. This provision of the statute has worked much injustice. I am of opinion that the limitation should commence to run from the date of the disability instead of the date of accident, and that the time for filing a claim should be extended to a period of two years.

Failure of Insurance Carriers

One of the stock insurance companies licensed to do business in the State of New York has been taken over for liquidation by

the Superintendent of Insurance. The failure of this company made the employers insured by the company directly liable for the payment of compensation. This caused much delay in the payment of claims, and in several cases where the employer was irresponsible, made it impossible for the Commission to enforce payment of compensation to injured employees or the dependents of deceased employees. The delay has resulted in great hardships. In the case of a mutual insurance company, which withdrew from business, payments of compensation were made in full. The company had ample assets because of its reserves, and the employers could have been assessed if necessary to cover any deficiency.

Failure to Insure Compensation

According to the testimony, more than 15,000 employers have failed to give security for the payment of compensation, although required to insure by the Compensation Act. Most of these are small employers, and many of them are financially irresponsible. Awards by the Commission arising from claims against these employers are often uncollectible.

Treatment and Care of Injured Workmen

Section 13 of the Compensation Law requires the employer to furnish the necessary medical attention for injured employees. An injured workman cannot select his own physician, however, unless the employer fails to provide a physician after request. When a request is made, the employer, under the decisions, has a right to select the physician. As a matter of practice the physician in most cases is selected by the insurance company. The claimant is thus left in this position, viz.: the physician who treats his injuries and restores him to a working condition, later appears as a witness against him upon his application for compensation. In one case brought to my attention, a claimant had been examined by 32 physicians, including the medical officers of the Industrial Commission. None of these physicians regarded the relation with the employee as confidential, and in his struggle to obtain compensation, he could not rely upon any one of them to act as a witness on his side of the case.

The fact that the insurance carriers control the selection of attending physicians has worked to the disadvantage of the injured workman. Aside from this, the medical profession as a whole is greatly dissatisfied with the present system, which has developed into a "business" undertaking and has destroyed the confidential relationship and the human interest as between the physician and patient.

On the other side it is argued in support of the present system that the organization of medical practice for the treatment of industrial injuries is desirable because the treatment is more prompt and adequate. It is also urged that the cost of treatment is much less than where there is free choice of physicians by the claimants.

Whether a system which gives absolutely free choice of physicians to the workman would be better is open to dispute. The testimony of the chairman of the State Industrial Commission of Ohio, the chairman of the Compensation Commission of British Columbia, the president of the American Medical Association and the chairman of the Committee on Social Insurance of the New York County Medical Society is to the effect that free choice of physicians has worked well after a thorough trial, and that it would make for better conditions in the medical profession.

In the State of Massachusetts free choice of physicians has been tried and the Commission now recommends a return to the former system upon the ground that the insurance company which is required to pay the medical bills, should have the right to select the physician to assure itself that the treatment is satisfactory.

In the State of California the State Insurance Fund has at first tried free choice of physicians, but has now modified this plan by establishing panels of physicians in various localities and requiring the workman to choose from the list established by the Commission. This change was made because absolute free choice in some cases had revealed unsatisfactory treatment.

It is my opinion that the medical profession generally can be trusted to treat industrial injuries. What appears to be needed in connection with the compensation law is a better organization

of the medical profession for the purpose of providing prompt and efficient service in cases of industrial injuries. The State medical societies and the county medical societies should be consulted as to how this organization can be secured and made effective. The cooperation of the medical profession should result in a revision of the law, which would permit free choice of physicians at least to a limited extent. I believe that some change in the law in this respect is imperative.

Through the various means above enumerated, large sums of money have been lost to claimants under the compensation law, amounting in the aggregate to many millions of dollars. Some of the evils found to exist are due to activities of insurance carriers, some to defects in the statute, and others to a breakdown in administrative matters. All of the underpayments have inured to the financial benefit of insurance companies, self-insurers and others, such as employers having the Wynkoop service. A summary of my recommendations to meet these conditions and to meet other conditions hereinafter mentioned will be found at the close of this report.

THE MEDICAL DIVISION OF THE COMPENSATION BUREAU

The Commission maintains a medical division which is in charge of Dr. Raphael Lewy as chief medical adviser. There are four assistant medical examiners, two having been added during the present year because of the change from direct settlements. The employees of this division make physical examinations of claimants and advise the Commission as to the nature and extent of the injuries. They also give advice as to the cause of death where claims for compensation are made by dependents of deceased employees. It is apparent that very great powers are vested in the medical division. The Commission is guided to a large extent by the reports made by the physicians in this department. A number of unfortunate conditions exist in relation to this medical division.

In many cases the Commission refers the claimant to a specialist, such as an eye, nerve or surgical expert. The purpose is to

obtain an impartial report upon which the Commission may base its decision. In all of these cases the expert is selected by the chief medical adviser. Although the expense of making the examination is paid by the insurance carrier in each case, the chief medical adviser requires the physician to send the bill to him, and he then forwards the bill to the insurance carrier with a request that the check be made payable to the physician and forwarded through the chief medical adviser instead of to the physician direct.

The fact that the bills for these experts are sent through the chief medical adviser and are paid through him, creates suspicion. This suspicion is enhanced by the fact that the bills for these specialists are almost invariably higher than charged for the same service when the physician is employed by a patient or by an insurance carrier, directly.

Dr. Meyer Wolff has charge of the treatment of injured workmen for a number of insurance companies and self-insurers. For this purpose he maintains a central office at 61 Second avenue, New York City, and about 60 branch offices throughout Greater New York. Dr. Wolff constantly appears before the medical division when the workmen treated by his physicians are being examined, and also takes part in the adjustment of the cases. One of the assistant medical examiners, Charles Steinhauser, was formerly employed by Dr. Wolff, and in at least one instance the chief medical adviser requested an insurance company to send its claimants to Dr. Wolff for treatment. It goes without saying that no connection should exist between physicians employed by insurance companies and physicians employed by the State Industrial Commission. As pointed out in relation to the final adjustment cases, another assistant examiner, Dr. Boyle, has, to say the least, been extremely negligent in the examination of claimants.

For the reasons above stated, and in order that the medical division of the Industrial Commission shall be free from every suspicion, I recommend a complete reorganization of this division.

COMPENSATION INSURANCE

Under section 50 of the act every employer is required to give security for the payment of compensation. This security may be

given through either one of the following four methods: (1) By insuring with a stock insurance company; (2) By insuring with a mutual insurance company; (3) by insuring with the State Insurance Fund; (4) by furnishing proof to the Commission of financial ability to pay compensation, in which case the employer becomes what is known as a self-insurer. Some 358 industries of the State (mostly large corporations) have become self-insurers.

Attached hereto is a report of my actuary reciting in detail the operations of insurance carriers under the Workmen's Compensation Law from the time the law took effect on July 1, 1914, up to December 31, 1918, a period of four and one-half years. This report shows the total earned premiums, losses and expenses for all insurance carriers for this period of time to be as follows:

Earned Premiums	\$87,784,907
Incurred Losses	50,915,555
Incurred Expenses	26,880,554

The expenses do not include the expenses of the State Insurance Fund by reason of the fact that such expenses were paid by the state up to July 1, 1916.

The following table shows the premiums, losses and expenses as applied to each different class of insurance companies:

	Earned premiums	Incurred losses	Incurred expenses
Stock Companies:			
Non-participating.....	\$64,761,869	\$38,597,830	\$24,573,976
Participating.....	1,502,967	729,815	269,448
Mutual companies.....	9,521,616	4,667,938	2,038,120
State Insurance Fund.....	11,998,455	6,919,972	

In the statement of the actuary the earned premiums of the State Fund are increased from \$10,030,666 to \$11,998,455 to make them directly comparable with the premiums collected by other insurance carriers.

The actuarial report and the evidence produced before me, shows that the total saving to the employers insured in the State Fund during this period of time, over and above what it would have cost had the same insurance been carried by stock companies, was approximately \$4,000,000.

This also shows that ^{if} had the employers insured by stock companies placed their insurance with the State Fund, they would have saved during the same period, by reason of lower expenses and returns in the form of dividends, the sum of \$18,000,000.]

It is impossible to estimate the profits received by the stock companies because the reserve for incurred losses is based upon an arbitrary percentage of the earned premiums and does not represent the actual losses. This manner of setting up reserves is open to criticism. The loss liability may be higher than the percentage of premiums, and on the other side, where the losses are low, large profits may be concealed through this percentage method of setting up reserves. The State fund and mutual companies are required to set up a reserve to meet each individual claim.

The actuary estimates that self-insurers have incurred liability by reason of awards in which the payments will extend over long periods in the future amounting to a total of between \$20,000,000 and \$25,000,000. The securities deposited with the Commission to discharge its obligations are entirely inadequate. The Commission has endeavored to require payment of the present value of the claims of these self-insurers into a trust fund, but difficulty has been encountered in ascertaining the amounts and the provision of the law authorizing this action has been of little protection up to the present time. Provision should be made in some way requiring reserves or payment into a trust fund in amount sufficient to meet all claims against insurance companies and self-insurers.

Section 34 of the Act should be broadened so that claims for compensation and awards made by the Commission shall be preferred over all other claims as against an employer and insurance carrier.

COMPENSATION BENEFITS

The rate of compensation fixed by the law in 1914 is limited to not more than \$15.00 per week and not exceeding two-thirds of the average wages, except in the case of permanent injury to the hand, arm, foot, leg, and eye, where the limit is \$20.00 per week. The compensation to dependents is limited to two-thirds of the wages, but wages in excess of \$100.00 per month are not taken into consideration.

At the time the compensation law was enacted, the compensation benefits were considered fully high enough, and indeed at that time they were the highest benefits paid under any compensation law in the world. Since 1914, however, wages have increased about 60 per cent. Compensation has not increased accordingly because of the limits provided by the statute. It is estimated that whereas the wages have increased by 60 per cent the compensation benefits have only increased by 25 per cent. A general increase should be made in the compensation schedules both to employees disabled from working and to dependents in case of death.

THE STATE INSURANCE FUND

A report has already been made by me criticising the management of the State Insurance Fund. In the reply to this report filed with you by the State Industrial Commission, it is shown that the following reforms have already been instituted as a result of this investigation:

1. Extra dividends have been declared to the employers in some of the six general groups.

2. A committee has been appointed to make a study and to report to the Commission as to a revision of insurance premiums.

3. The Commission has adopted a resolution abolishing the discrimination in declaring dividends to special groups and providing that in the future all groups should be treated in the same manner, so far as possible, in the declaration of dividends.

4. Group 17, known as the Wynkoop group, has been thrown open to any employer in the same trade who can qualify as to size of payroll, medical and safety organization; the Commission has condemned the contingent character of the compensation paid Mr. Wynkoop, and has directed that periodical statements of dividends shall be sent directly to the employer in the future instead of to Mr. Wynkoop.

5. The special experience rating plan has been made available to all employers having sufficient payroll.

Before replying to my report the Commission made little, if any, investigation except to call into conference the manager and the actuary of the Fund. No examination of the records in relation to individual policyholders or claims was made by the Com-

mission, and as testified before me, the reply of the Industrial Commission was based almost entirely upon a report made to the Commission by the manager of the State Insurance Fund, which was transmitted to you with the reply of the Commission. This report of the manager is full of misstatements and deception. A few instances are as follows:

1. Attached to the report of the manager is a letter written to me under date of March 4th, 1919, in relation to a comparison between insurance rates in Ohio and New York. This letter, and also the report of the manager, contains a statement to the effect that under the same operating conditions the net cost to policyholders of the New York State Fund was slightly less than the net cost to policyholders of the Ohio State Fund.

Upon receipt of this letter I addressed a communication to the manager, dated March 17, 1919, pointing out mistakes made by him, and thereupon received another communication under date of March 29, 1919, enclosing a computation made by Mr. Watson, actuary of the State Fund, showing the comparative collected insurance rate as between New York and Ohio, as follows:

Ohio State Fund, comparative collected rate.....	2.33
New York Stock Company, comparative collected rate..	3.89
New York State Fund, comparative collected rate.....	3.32

This comparison established that the rates collected in Ohio were very much lower than the rates collected in this state either by stock companies or by the State Fund.

The correspondence above referred to was deliberately suppressed by the manager in making the report to the Industrial Commission.

The letters above referred to, together with a statement prepared by E. E. Watson, Actuary of the Ohio Commission in conference with Deputy Commissioner Archer, dated July 19, 1919, are attached hereto and marked Exhibit "B."

2. To justify employment of the Dr. Meyer Wolff service for the treatment of claimants in the Greater New York territory the manager reports that the average bill rendered by the Dr. Wolff Dressing Stations for the year ending December 31, 1918, was \$5.51 per case, and the average bill of all other physicians was the

um of \$15.97 per case. This comparison was absolutely vitiated by reason of the fact that the other physicians included the specialists employed by the State Fund who received as high as \$25.00 for making a single examination, and whose fees for office treatments are much in excess of the fees for the ordinary medical service rendered by the Wolff Dressing Stations.

3. In justification for the establishment of a special group for employers engaged in the business of window cleaning, the manager reported the deposit of a bond by the Window Cleaners' Protective Association to secure the State Fund in the event that the losses and other charges against the group exceeded the installment of premiums. The manager well knew, and indeed it was known to the Commission, that this bond had never been executed by the principal, and in any event, was defective in form and of doubtful validity.

4. In justification of the Wynkoop Service experience was given of employers who had been insured in the State Fund both before and after the Wynkoop Service. One of these employers was the Brooklyn Eastern District Terminal, and the manager omitted to state that employees of this company engaged in the operation of vessels and engaged in the operation of a terminal railroad were not covered by the State Fund policy under the Wynkoop Service, whereas all of such employees were protected by the State Fund under the previous policy. The manager testified at the public hearings that the comparisons in his reply were all really without any comparative value.

State Fund Management

1. *Finances:* In my preliminary report I referred to the fact that the State Fund at the present time was sound financially, and reference is made to the report of my actuary attached hereto showing the State Fund to be solvent and strong and to be possessed of unimpaired reserves.

In the answer filed with you by the Industrial Commission it was asserted that the prosperous condition of the State Fund at the present time was evidence of good management. This is not denied. But on the other hand, it appears from the evidence adduced at the hearings that the financial condition of the Fund

is due almost entirely to a large increase in premium rates and to a large increase in premium income due to an increase of about 60 per cent in wages during the past two years. It also appears that the management had little to do in bringing about this result.

If the management is to be judged by financial success alone, the converse would be true of the years 1916 and 1917. During this period the general surplus of the Fund was first reduced to a mere pittance, the catastrophe fund was then trenched upon, and finally almost virtually disappeared. This was caused by a reduction in premiums at the end of the first six months and to the failure of the management to properly audit payrolls and make collections of premiums. During this period, however, dividends were declared and allowed to employers in special groups. The Commission had to pay these special dividends because of the underwriting arrangement made between the employer and the manager of the State Fund. It was feared that the failure to allow the dividends, although the reserves were impaired, would result in a withdrawal of the special groups from the Fund, and in further justification for its action the Commission relied upon the probability of collecting additional premiums in the general groups.

2. *Payroll Auditors:* A large sum of money, amounting to hundreds of thousands of dollars, has not been collected by the State Fund through failure to properly audit payrolls. Although 19 payroll auditors are provided by the budget, only five or six were performing this work during the year ending June 30, 1918, and these for only an average of about thirty weeks per year. The manager testified that this condition was made necessary because the payroll auditors were required for other work. If this condition exists, the legislature should be petitioned for a larger office force instead of additional payroll auditors. There is no question but what the present force of payroll auditors would be sufficient to perform the work if assigned to these duties.

3. *Cancellation of Policies:* To determine why so many policies had been cancelled in the State Fund during the past year, I addressed a letter to 121 employers. Replies were received from 63. These replies established the following conditions: Fourteen employers cancelled policies because of complaints in relation to service. These complaints covered a large field, including delay

in the payment of claims, failure to answer correspondence and loose management. Fifteen employers reported that they were able to obtain cheaper insurance elsewhere; 17 were cancelled because the employer went out of business; six were cancelled for business reasons, and two because the State Fund policy did not cover admiralty liability, and eight policyholders assigned no reason for cancellation, but expressed satisfaction with the service.

The fact that so many policyholders withdrew from the State Fund because of complaint of the management and because of alleged cheaper insurance elsewhere establishes the necessity of a closer relationship between the management and its policyholders. In other states, particularly in Ohio and California, the payroll auditors have been kept constantly in the field and have been the means of establishing a close relationship: The State Fund by reason of its low expense ratio, can furnish insurance cheaper than either stock or mutual companies, and if proper attention could be paid to each individual case, policyholders could not be induced to withdraw from the Fund because of alleged cheaper insurance.

4. *Accounts:* The general ledger of the State Fund was found to be in balance, but many individual ledger accounts were not written up. It was also found that the individual accounts had not been reconciled with the records in relation to each policyholder. We found it impossible to reconcile the individual accounts with the records in each case because of lack of time. It was evident that the individual ledger in a great many cases did not show the exact condition of the account, and the Commission should immediately assign special employees to this work in order that all individual accounts may be checked up. This condition was due largely to the neglect of the chief accountant, who was interested in an outside accounting firm, and who also according to the evidence before me, was involved with the other employees who were obtaining money from claimants.

5. *Favoritism in Computing Premiums:* Many irregularities were uncovered in relation to payroll audits and the computation of premiums of individual policies. This work was also in charge of the chief accountant.

In one instance, that of the William Kennedy Company, the payroll auditor was offered a substantial bribe.

Upon investigation of the payroll in this case by the force of auditors employed by my counsel and actuary, it was found that some \$60,000 was sought to be deducted from the payroll audits on various grounds, some of which constituted an attempt to cover up an offense committed by officials of this company. Although the reduction of the payroll was not secured, the same result was accomplished for the employer within a few days after the bribe was offered by a reduction of the rate.

In the case of the Empire Carting Company, which was engaged in the carting business, the computation of a large part of the premium was made under a classification of saddlery and harness manufacturing. Further suspicion was given this transaction by reason of the fact that the folder containing all back papers in relation to the Empire Carting Company had been lost or destroyed. Employees of my actuary and counsel, however, by putting together other records, have ascertained that this company is indebted to the State Fund in the neighborhood of \$9,000 for premiums, nearly all of which had been apparently covered by either destroying the records or through false classification in the payroll audit.

In the matter of employers engaged in the business of wrecking buildings, both in New York City and up-state, wholly inadequate means for checking up the payrolls have been employed, and the barest and most shameless frauds have been committed upon the State Fund. In some cases no payroll is reported covering large wrecking jobs, and in others, reports of the payroll are only made after accidents had occurred and claims filed against the State Fund for considerable amounts. An employee of the State Fund at one time reported these conditions to the manager, advising him that the chief accountant must be cooperating with the employers in perpetrating these frauds, but this employee was not permitted to complete his investigation.

6. *Special Groups:* Out of the total premiums collected by the State Fund, 45 per cent is received from employers in special groups. These employers in reality are self-insurers. They operate under an accounting system with the State Fund, through which they are charged actual losses, a 5 per cent contribution to the catastrophe Fund, and a proportionate share of the expenses. The remainder, if any, is returned as dividends. Should the

losses exceed the premium upon the termination of a group, such loss would be paid by the State Fund generally. The matter of these special groups is covered in the report of my actuary, attached hereto, together with his recommendations concerning the same. As already pointed out, the Commission has modified the practice in relation to dividends.

7. *Special Experience Rating*: Several large employers in the general groups, comprising mostly employers having the Wynkoop Service, are given the benefit of a special experience rating plan. These employers receive a dividend in the form of a rebate, in addition to the pro rata dividend declared in the group. This plan was concealed from the Industrial Commission by the manager for a long period of time. Even when the manager was requested to advise concerning the arrangements with the Brooklyn Eastern District Terminal he evaded the question and failed to inform the Commission that this company had been insured under this special plan. One requirement for special experience rating is a semi-annual premium of at least \$1,000. The plan was extended to the Standard Varnish Works under the Wynkoop Service, and when it was found that the premium did not reach \$1,000 the insurance policy was changed to cover medical treatment. This treatment was at first assumed by Wynkoop, and the change was undoubtedly made to increase the premium to \$1,000 so that Wynkoop would get the benefit of one-half the rebate. Although the Commission has directed that the plan be offered to all employers who can qualify, it is, in my opinion, contrary to the requirements of the statute for pro rata dividends within the groups.

8. *The Medical Service*: In my examination of the claim folders I found a consistent effort to take claimants away from their own physicians and from the hospitals in New York City in order that they might be treated by the dressing stations of Dr. Meyer Wolff. In addition to this the State Fund employs doctors to visit claimants and make an examination as soon as a report of the accident is received. It was testified before me that the sole result of these examinations was to get the claimant transferred to one of Dr. Wolff's dressing stations. In almost every report of these examinations the injured workman was directed to call at the office of the State Fund and was there exam-

ined again by the medical adviser, who referred him to one of Dr. Wolff's dressing stations. Dr. Wolff has a main office at 61 Second avenue, where injured workmen are given baking, massage and electrical treatment. In addition, he has about sixty dressing stations in the vicinity of Greater New York. These dressing stations are maintained by physicians who render the treatment. The bills are all rendered by Dr. Wolff, and the physician in charge of the dressing station receives 50 per cent of the fee. The income of Dr. Wolff from the State Insurance Fund is now approximately \$75,000 per year. The medical adviser of the State Fund, Dr. Henry T. Radin, appointed about three months ago, was, at the time of his employment, general manager of Dr. Wolff's dressing station service.

Misconduct in the State Fund

Reference has already been made in this report to the system of graft instituted by employees of the State Fund, under which claimants were defrauded of large sums of money. In connection with this evil of bribery and corruption, it transpires that charges had been brought to the attention of the manager of the fund in relation to the following matters, none of which were ever brought to the attention of the State Industrial Commission:

1. Charges were made against one of the claim examiners who, in fact, was involved in this bribery and corruption, to the effect that he collected large sums from employers engaged in the business of window cleaning, for alleged services in connection with workmen's compensation insurance.

2. As already appears in this report charges were brought to the attention of the manager that an employee of the State Fund had held up a claimant who was only 18 years of age for the sum of \$200. These charges were readily dismissed by the manager upon an affidavit made by the claimant retracting the charges. It transpires from the evidence produced before me that these charges were in fact true and could have been discovered had a thorough investigation of the circumstances been made by the management.

3. Charges were brought before the manager that an employee of the State Fund, in combination with an employer insured in one of the special groups, had approached claimants, encouraging

and urging such claimants to make application for final adjustment of their claims.

4. It also appears in the testimony that crap-shooting and gambling had taken place at the office of the Fund upon several occasions, and that employees holding responsible positions were involved. These employees were permitted to go free with slight punishment.

5. It also appeared from the testimony that the manager of the State Fund, before the system of grafting on claimants originated, had himself been the recipient of important financial favors from one G. W. Wynkoop, proprietor of the Wynkoop Service, which service had transactions with the State Fund, through which Wynkoop received gross earnings in excess of \$113,000. Among these favors were financial accommodations upon the purchase of an automobile, and the gift of another automobile to the wife of the manager at a cost of \$3,400.

6. It also appears in evidence that six automobile tires were purchased by the Window Cleaners' Protective Fund and turned over to the medical adviser of the State Fund. The medical adviser, now deceased, had purchased an automobile at the same time as the gift from Wynkoop. Both of these automobiles were kept in the same garage. The manager acknowledged that he received some of these tires from the medical adviser, but testified that he paid for them by meeting the entire expense of the garage until the purchase price of the tires was paid. The manager was unable to recall the price.

7. Testimony was produced before me to the effect that the manager had been warned of something wrong in relation to the collection of premiums from employers engaged in the business of house wrecking, notwithstanding which the manager did not permit the matter to be investigated.

The Wynkoop Service

In my preliminary report I called attention to the arrangements made by G. W. Wynkoop with certain employers in the State Fund under which Wynkoop, doing business under the firm name and style of the Wynkoop Service, received 50 per cent of the dividends received by such employers. I see no reason for withdraw-

ing any criticism made of the Wynkoop Service in my original report.

It was fully established from the testimony produced before me that the transactions with Mr. Wynkoop were brought about through the active coöperation of employees of the State Insurance Fund. Originally the policyholders having the Wynkoop Service were placed in general groups, and Group 17, known as the Wynkoop Group, was not established until July 1, 1917. At this time employers in the general groups were receiving no dividends, but through the establishment of the special group it was possible for the State Fund to declare as a dividend the excess of premiums over the losses and a contribution for the catastrophe fund and expenses. This group was established by the manager without the knowledge of the Commission, and it was not until March of 1918 that any member of the Industrial Commission was advised of that fact. This in itself surrounds the transaction with suspicion. It was not learned at this time, except through the actuarial report showing the experience of the group for the first six months.

Under the Wynkoop contract with the employer, he not only receives one-half the dividends but also one-half of any reduction in the premium. The contract is so worded as to convey the impression to the employer that reductions because of improvements in the plant are due to the Wynkoop Service, whereas in many cases the inspection and recommendations for these improvements came from the Safety Engineer of the State Fund. One of the principal condemnations of the Wynkoop Service arises from the fact that the employer is kept in the dark by the State Fund as to the dividends he would receive without the Wynkoop Service and the reductions he would receive in premium rates through inspections made by the State Fund Safety Engineer. I stated in my first report that, in my opinion, the success of the Wynkoop Service and the resulting profit to the employer and Wynkoop was due to the ability of Wynkoop to keep down compensation, and I expressed the belief that many of the Wynkoop cases were underpaid. Tests which I have since made, and the table of cases contained in another portion of this report fully justify these assertions on my part. I am clearly of the opinion that any group of employers having the same payroll exposure as those under the Wynkoop

Service would have obtained about the same dividends, if placed in a special group, without the intervention of the Wynkoop Service. This as a result of the large increase in wages and also from the fact that since July 1, 1917, the State Fund has had the benefit of a considerable increase in insurance rates.

In the report of the manager of the State Fund submitted to you with the answer of the State Industrial Commission, it is asserted that no favors had been shown the Wynkoop Service. This statement was made in connection with the explanation of the gift of the automobile. It appears from the foregoing that a substantial favor was granted Wynkoop by permitting him to establish a separate group without giving full information to the employers as to dividends and reductions in premiums. In addition, it appears in the evidence that many other substantial favors were granted the Wynkoop Service. Some of these favors are as follows:

1. Upon at least two occasions Wynkoop was permitted to take folders from the office of the State Fund. These folders contained full information concerning the experience and accounts of the policyholders. One of these folders related to the Cutler Desk Company. Wynkoop was permitted to take the folder to Buffalo, and subsequently the business of this employer was handled through the Wynkoop Service. All this was done notwithstanding the prohibition contained in Section 105 of the Compensation Law making the disclosure of such information a misdemeanor.

2. The State Insurance Fund sent all bills for premiums against employers having the Wynkoop Service to the office of Mr. Wynkoop. This permitted Wynkoop to make out a new bill which he rendered the employer, who was thus kept in the dark as to the amount paid by Wynkoop to the State Fund.

3. In almost every case Wynkoop was permitted to pay a small advance premium to the State Fund, whereas he collected and retained for long periods of time much larger amounts from his employers.

4. In the case of the Art Metal Construction Company, Wynkoop requested the Safety Engineer to make an inspection, and asked that the man sent for this purpose be instructed not to dis-

cuss rates. This request was complied with, although it was with the obvious intention of keeping the employer in the dark as to the amount he should really pay and as to what reduction he would receive if he complied with the recommendations made by the Engineering Department.

5. It was established by the testimony that many employers requested the State Insurance Fund for information concerning insurance rates, expressing willingness to insure with the Fund, and that shortly thereafter these employers placed their insurance through the Wynkoop Service. These transactions were such as to indicate conclusively that Wynkoop was tipped off and thereby enabled to secure the business for himself. In one case he was furnished with the experience of an employer with the evident purpose of having information from which he could urge the advantage of the Wynkoop Service. In one case where the employer had made application and furnished a statement from which the advance premium was computed at nearly \$9,000, Wynkoop secured the risk and later was permitted to pay an advance premium in the sum of about \$2,500.

6. In the case of the Metropolitan By-Products Company, it appeared that Wynkoop was extended a credit amounting to approximately \$71,000, and that whereas he had collected \$10,500 from the receiver of this company, he had only paid \$1,100 into the State Fund.

7. In the case of the United States Hame Company, Wynkoop requested that the State Fund write a letter to the employer stating that everything due from this policyholder had been paid, including an advance premium. This request was complied with in the exact terms suggested by Wynkoop, whereas bills had not even been sent to Wynkoop for the amount, and though this letter was written in August, 1918, the account was not paid until December 30th of that year.

8. In the case of the Gould Coupler Company, it was shown by the testimony that Wynkoop was allowed a reduction of 20 per cent from the premium for taking care of the medical service, whereas the reduction should have been $17\frac{1}{2}$ per cent. The advantage to the Wynkoop Service for this one item alone was about \$2,500. Wynkoop also received this same reduction of

20 per cent instead of 17½ per cent in the case of other policyholders.

9. The testimony establishes that the charge brought by Wynkoop under policies in the State Fund for medical service aggregated about \$74,000, and that one-half of the dividends allowed to the Wynkoop policyholders aggregated \$39,000, making the total received by the Wynkoop Service by reason of such policies the sum of \$113,000. In addition, Wynkoop made other charges to certain policyholders.

10. Only a short time ago the State Fund declared an extra dividend to the Wynkoop policyholders amounting to 2 per cent, thereby reducing the surplus to such an extent that a deficiency would result from rehearing of the Wynkoop claims.

The foregoing are only a few selected instances of what I found to have been very substantial favors granted to Wynkoop. These favors resulted in large financial value to him and seem to warrant the gift of valuable presents and other financial assistance. It is impossible that these favors should have been granted Wynkoop without the knowledge of the manager.

As already stated, the bills prepared by the State Fund are not transmitted by Wynkoop to the policyholders. Instead, he makes out a bill, charging in some cases a percentage for medical service to employees, and allowing each policyholder a dividend according to his individual earnings instead of a pro rata dividend declared by the State Fund. This practically constitutes an evasion of the Compensation Law requiring pro rata dividends to members in the group, and in addition it establishes the fact that Wynkoop is engaged in carrying on an insurance business in violation of law.

Aside from the question as to whether or not the service performed by Wynkoop is of actual value to the employers, it is clear that the attachment of a profit-earning scheme like this to a publicly-administered State Fund is scandalous and reprehensible per se and should not be permitted. The Wynkoop Service should be eliminated, even under the modifications as laid down by the Commission. In this connection it is well to note that Wynkoop disputes the power of the Commission to eliminate his contingent fee.

The Window-Cleaners' Group

In addition to the favors shown Wynkoop, I also find from the evidence produced before me that special favors were extended by the manager of the State Fund to the Window Cleaners' Protective Association. These favors consist of the establishment of a special group under which, in defiance of the statute, the rate of premium was not established in advance and the contribution to the catastrophe fund and the expenses based thereupon, but was left for determination from actual experience, and by the acceptance, in lieu of a full advance premium, of a bond prepared without advice of counsel of the Commission, which was never executed by the principal and which is so defective as to be of doubtful validity. It was this same association which furnished these automobile tires without charge to the medical adviser, some of which eventually reached the manager.

Interference with Investigation

During the entire investigation repeated efforts were made by the manager and by persons receiving special favors from the State Fund to interfere with its progress and prevent the disclosure of the irregularities revealed by this report. During the public hearings William A. Heady, private secretary to the manager, suddenly disappeared and was discovered in Portland, Oregon. Some of the employees implicated in graft temporarily disappeared, but all of them were eventually located. Another witness, Tito Pacelli, already referred to, avoided the service of subpoena until instructed to appear by Deputy Commissioner Curtis, president of the International Tunnel Workers' Union, of which Pacelli was the secretary and treasurer.

Handicaps of Management

The management of the State Fund has been greatly handicapped through civil service requirements and by reason of the fact that the salaries of all employees are fixed long in advance. Under the budget system the salaries and expenses of the State Fund up to July 1, 1921, have already been estimated in detail. This budget system works well in relation to the ordinary administrative departments, but it is a severe handicap to a State insur-

ance fund in competition with other insurance carriers. No business institution can succeed when it has no leeway in the amount it can expend for salaries and expenses, and it seems impossible to make an accurate estimate at this time for the salaries and expenses of an insurance company for the month of June, 1921. For this reason I recommend that the State Fund be permitted to pay its expenses from the premium income under limitations to be laid down by the Legislature.

There should also be co-operation between the management and the policyholders, and to bring this about I recommend an amendment to the statute authorizing the appointment of an advisory board taken from the policyholders in the Fund.

POLITICAL ASSESSMENT OF EMPLOYEES OF THE COMMISSION

The evidence produced at the public hearings establishes that a systematic attempt was made to cause civil service employees in the New York and Brooklyn offices of the Commission to make contributions for the campaign fund of the Republican State Committee for the election held in November of last year. Two civil service employees in the Brooklyn office testified that they were requested to make such contributions by Deputy Commissioner David M. Stone. Five employees in the State Fund testified that they were requested to make contributions by William A. Heady, private secretary of the manager. Two women employed in the Department of Labor testified that they contributed. One of these gave her check to William Pettit and the other to John H. Price, both employees of the Labor Department of the Commission.

THE INDUSTRIAL COUNCIL

The Labor Law, section 40a, provides for an Industrial Council appointed by the Governor, made up of five representatives of industry and five representatives of labor. The secretary of the Industrial Commission is made the secretary of the Council, and any person not a member of the Council may be selected as chairman. This Council advises the Industrial Commission only as to matters submitted by the Commission. It does not originate. I believe the Council would be more effective if entirely separate from the Commission as to its officers. If a secretary were con-

stantly employed to procure information and advise the members, the Council would be in shape to suggest constructive measures for consideration by the Commission.

STATE INDUSTRIAL COMMISSION .

Through the consolidation of the Labor Law and Workmen's Compensation Law, the Commission is charged with vast responsibilities. The administration of the Labor Law, the Compensation Bureau and the State Insurance Fund in the largest State in the Union is a big undertaking. Like all commissions with more than one head, the responsibility is divided, and I attach little, if any, blame for the conditions disclosed herein to the members of the Industrial Commission individually. I have found them to be honest, efficient public servants, devoting much hard labor to the performance of their public duties. During the past two years the Commission was greatly handicapped because of the absence of the chairman, the late John Mitchell, who was called upon as chairman of the Foods and Markets Commission and in other ways to give his full time in the performance of other work for the State and the nation because of the World War. There is no question but that this work undermined his health and brought about his untimely death.

I believe, however, that the Commission should depend less upon its subordinates, and that all the Commissioners individually should be more familiar with the various departments, even if not under their immediate supervision. The Commission also should exercise more courage in dealing with incompetence within the departments.

In conclusion, I beg to add that I found the employees generally, especially within the Compensation Bureau and the State Fund, to have been courteous and working in full sympathy with the beneficial purposes of the statute.

SUMMARY OF RECOMMENDATIONS

Amendments to Compensation Law

1. To curb the activities of "runners" I recommend an amendment to the Compensation Law making it a misdemeanor for anyone to receive a fee in connection with a claim for compensation except in an amount determined by the Commission.

2. The creation of a Fourth Deputy Commissioner to be placed at the head of a division for the handling of claims when the injury results in death.

3. An amendment of section 28 extending the time for filing claims from one year to two years and providing that the time in disability cases shall commence to run from the date of disability instead of from the date of the accident.

4. An amendment to section 13 requiring that a panel of physicians be designated by the Commission, utilizing the advice of recognized medical societies, among whom injured workmen may have free choice, with power conferred on the Commission to add to, or to remove from, such panel, at their discretion.

5. An amendment of section 34, making claims for compensation and death benefits and awards made thereupon preferred over all other claims against, and debts of, insurance companies as well as employers.

6. Definite provision should be made permitting the Commission to call and require to be paid into a trust fund the present value of awards against all insurance companies.

7. A new section should be added to the law requiring stock companies to set up and maintain reserves to meet the actual liability upon each claim instead of setting up as reserves a percentage of its premiums.

8. Self insurers should be required to set up and deposit reserves in the same manner and in the same amount as other insurance carriers.

9. An amendment making all employers failing to give security for compensation automatically insured in the State Fund, and establishing a summary method for the collection of premiums and penalties for the period during which the insurance attaches.

10. The benefits of compensation law have now been so thoroughly demonstrated that the law should be extended to cover all employees without regard to the character of the employment.

11. The amount of compensation and death benefits should be generally increased, particularly as regards limits.

12. The State Fund should be authorized by law to pay expenses directly out of its premium income under such restrictions as may be laid down by the Legislature.

13. Provision should be made for appointment by the Governor of an advisory board selected from employers insured in the State Fund to take part in its management and to confer upon them extensive powers of review and regulation.

14. The provision for pro rata dividends in the State Fund should be amended to give the Commission power to declare and pay dividends according to the individual experience of each employer.

Procedure and Reorganization

15. Rules should be adopted by the State Industrial Commission in relation to the final adjustment of claims and the payment of compensation in one lump sum. The payment of future installments in one sum should only be granted after careful investigation, and each case of this character should be passed upon by a member of the State Industrial Commission.

16. In disposing of claims against the State Fund the employee should be given a hearing in every case in the same manner as regarding claims against other insurance carriers.

17. The Commission should investigate and rehear all claims against employers in special groups in the State Fund since July 1, 1917. The final adjustment cases against all insurance carriers should also be reviewed.

18. All cases in which the claim has been disallowed by a deputy commissioner, should be reviewed either by a member of the Commission or by the second deputy in charge of the Bureau of Compensation.

19. Provision should be made in the budget for the employment of a medical adviser for each up-State office.

20. Complaints received from claimants and applications for rehearing should be passed upon either by the second deputy or by a member of the Industrial Commission.

21. The medical division of the Compensation Bureau should be reorganized.

22. The Commission should select the specialists employed by the medical division of the Compensation Bureau by the medical officer of the State Insurance Fund, and regulate the fees.

23. All checks issued in payment of claims by the State Insurance Fund should be mailed to the claimants instead of delivered personally.

24. The records of the State Fund in relation to the accounts of individual policyholders should be immediately checked up and reconciled with the ledger accounts.

25. An audit of the State Fund should be made at least one each year by an outside accountant appointed by the advisory board.

26. All profit-making institutions, such as the Wynkoop Service and the Wolff Medical Service, should be eliminated from the State Fund.

Industrial Council

27. Section 40a of the Labor Law should be amended to confer broader powers upon the Industrial Council.

All of which is respectfully submitted.

(Signed) JEREMIAH F. CONNOR,
Commissioner.

MILES M. DAWSON,
Counsel and Actuary.

Dated November 15, 1919.

"EXHIBIT A"

Statement showing in detail the amount paid by direct settlement and the amount subsequently awarded after investigation by the Moreland Act Commissioner, in 114 out of 1,000 test cases.

EXHIBIT "A"

STATEMENT OF DIRECT SETTLEMENT CASES IN WHICH ADDITIONAL AWARDS WERE MADE BY THE
STATE INDUSTRIAL COMMISSION AS A RESULT OF THE INVESTIGATION
OF 1,000 TEST CASES

Case No.	Employee	Employer	Insurance carrier	Paid by direct settlement	Additional compensation awarded
200459	Herbert Behrens.....	Samuel Shier & Bros....	Cont. Cas.....	\$19 22	*\$350 06
200481	Michael Barrett.....	Bklyn. Heights R.R. Co.	Self.....	138 48	276 96
200484	Otto Bauer.....	Vulcan Rail & Constr....	Trav.....	152 50	1,352 17
200485	Henry Baum.....	Kraksauer Bros.....	Trav.....	47 23	116 27
200493	James Boylan.....	John H. Duncan.....	Trav.....	135 00	309 29
200518	John Bercik.....	Levering & Garrigues....	Aetna.....	15 00	*120 00
200528	Antonio Bibbo.....	Frank Morrel Co.....	Emp. Liab.....	15 00	525 00
200552	Louis Alenky.....	Mr. B. Altman.....	U. S. F. & G.....	175 00	350 00
200605	Robert H. Abrams.....	W. H. Gabagan, Inc.....	Trav.....	360 00	1,006 67
200608	George Alhrecht.....	U. S. Electro-Galv. Co....	U. S. Cas.....	32 50	87 50
200646	William Anderson.....	Interborough R. T. Co....	Self.....	252 50	3,953 89
200672	Morris Blinder.....	Samuel Shapess.....	Trav.....	137 50	125 00
200678	T. Ayres.....	Astor L. & H. & P. Co....	Self.....	237 63	2,000 00
200689	John Acker.....	Hotel Shelborne.....	U. S. F. & G.....	14 39	67 00
200694	Edward Bonnell.....	American Sugar Ref. Co....	Self.....	294 35	500 00
200733	Louis Aaronow.....	Downey Shipbldg. Corp....	Maryland Cas.....	15 00	105 00
225490	George Chaconas.....	Hy. Sonneborn & Co., Inc.	New Amsterdam.....	250 70	54 50
225515	William Coyne.....	Otis Elevator Co.....	Emp. Liab.....	60 00	120 00
225519	George Casper.....	Arbuckle Bros.....	Trav.....	354 72	133 02
225527	Walter H. Dorrell.....	Edgar T. Ward's Sons.....	Trav.....	16 16	66 94
225541	Joseph Domidion.....	The N. Y. Edison Co.....	Self.....	322 52	500 00
225544	Rocco Chopidelo.....	Metropolitan Eng. Co.....	London Guar.....	106 00	300 00
225559	Thomas Dinsen.....	Standard Shipbuilding....	Trav.....	42 48	56 64
225561	Frank Dibald.....	Knickerbocker Ice Co.....	Self.....	22 50	90 00
225578	Thomas Doherty.....	City of New York.....	Self.....	149 00	92 68
225590	Joseph Cochiaro.....	Estey Piano Co.....	Zurich.....	13 46	8 98
225593	Thomas Doyle.....	Rock Plaster Co.....	Emp. Liab.....	148 06	100 00
225609	Peter Deniczewicz.....	James Mitchell, Inc.....	New Amsterdam.....	281 20	862 90
225632	Jim Cross.....	L. & B. Waller & Potters	U. S. Cas.....	138 48	*300 00
225633	John Davies.....	The N. Y. Edison Co.....	Self.....	12 27	326 29
225714	Alfred Doyle.....	Lorenzo & Byrnes.....	Gen. Acc.....	142 38	750 00
225728	Michael Carroll.....	Verdon & Co.....	Emp. Mutual.....	35 89	150 00
225767	David Crotty.....	Royal Garage.....	Trav.....	257 62	*504 82
225792	Frank Cuscuolo.....	T. F. Meehan & Son.....	Maryland Cas.....	135 00	300 00
300543	John McMahon.....	Brooklyn R. T. Co.....	Self.....	21 12	623 04
300565	Paul Liebman.....	Deliv. Auto T. & B. Co....	Maryland Cas.....	200 00	150 00
300591	Michael Morris.....	New York Dock Co.....	Trav.....	415 44	1,950 26
300659	Charles E. Murray.....	Sackett & Wilhems Corp....	Trav.....	24 02	91 30
300670	Salvatore Musso.....	Rockwood & Co.....	Trav.....	180 67	150 00
300672	Margaret Markstraler	Edmund Dwight.....	Empl. Liab.....	147 04	*635 61
300677	Robert McEwan.....	Borden's Farm Prod. Co....	Self.....	690 00	793 52
300687	William Mueller.....	Empire State Dairy Co....	Standard.....	87 52	300 00
300699	Olaf Matson.....	Johnson Shipyards Corp....	Liberty Mutual.....	52 50	97 50
300708	John Murphy.....	E. & R. Realty Corp.....	Emp. Liab.....	369 28	1,405 00
300783	Joe Lambert.....	Court & Remsen Co., Inc.	Emp. Liab.....	92 32	300 00
300789	John McCarthy.....	James Wilson & Co.....	Trav.....	17 50	95 00
300801	Mary McLaughlin.....	Bloomindgale Bros.....	Gen. Acc.....	74 97	1,066 83
300808	Joseph Martin.....	Int. Rapid Transit.....	Self.....	50 18	1,100 00
325441	Nora Ryan.....	Biltmore Hotel.....	Emp. Liab.....	139 65	617 56
325481	Joseph Reilly.....	Amer. Concrete Stil. Co....	Emp. Liab.....	100 00	137 50
325490	Maurice Rosenfeld.....	Union R. R. Co.....	Self.....	150 00	100 00
325494	Thomas Rose.....	Lang Products Co.....	Emp. Liab.....	53 84	13 46
325496	Abraham Rubin.....	Tergensen & Hanson.....	Trav.....	135 00	15 00
325500	Stephen P. Russo.....	J. H. Williams & Co.....	Travelers.....	36 33	60 55
325553	Gustav Nilson.....	A. Olsen.....	Olcean.....	60 00	167 50
325559	Joseph Rossano.....	P. H. Gill & Sons Forge			
		& Mch. Wks.....		184 00	*1,024 50
325562	Patrick Naughton.....	Richard Furlong Co.....	Aetna.....	120 00	37 50

Case No.	Employee	Employer	Insurance carrier	Paid by direct settlement	Additional compensation awarded
325569	J. Ryan.....	Knickerbocker Ice Co..	Self.....	\$17 31	\$130 79
325605	Edmund Pepper.....	Muralo Co.....	Travelers.....	270 00	3,000 00
325638	Herman Reichert.....	Fosland Trucking Co..	Self.....	55 00	230 00
325679	Delia O'Hara.....	New York Railway Co..	Self.....	184 29	*423 21
325684	Henry Reskner.....	North Side Baking Co..	Standard Acc.....	358 08	3,282 40
325697	Charles Nathan.....	N. O'Connell.....	Travelers.....	67 50	260 00
325709	Luke O'Brien.....	Sheffield Farms Co., Inc.	Self.....	178 48	1,064 84
325725	E. Perlberg.....	Hartford Lunch Co.....	Travelers.....	38 13	*117 92
325746	Stephen Ryden.....	J. M. & P. Scanlan, Inc.	Aetna.....	285 00	238 04
325752	Edward Rush.....	City of New York.....	Self.....	298 12	450 00
250599	Alexander Godofsky.....	Stern Bros.....	Emp. Liab.....	60 55	411 01
250634	Jos. Giardini.....	Holbrook, Cabot & Rollins.....	Self.....	30 00	1,920 00
250637	Samuel Goldrich.....	Int. Rapid Transit Co..	Self.....	225 28	1,401 36
250638	Jas. Grinaldi.....	Casella Bros.....	Emp. Liab.....	85 33	36 57
250664	Margaret C. Fisher.....	Duplex Engine Gov. Co..	Aetna.....	134 54	*317 13
250655	John Friend.....	Amer. Railway Ex. Co..	Self.....	100 95	500 00
250470	Michael Gough.....	Morse D. D. & Rep. Co.	Self.....	379 08	*1,280 80
250502	Thomas Golden.....	Birdsall Express Co.....	London Guar.....	147 67	66 85
250501	William Gnewash.....	Joseph Gaydica.....	Standard Acci.....	135 00	140 00
250558	Alex. J. Spielman.....	White Motor Co.....	Aetna.....	65 00	150 00
250441	Edward Garibaldi.....	Standard Charcoal Co..	Maryland Cas.....	105 00	6 00
250563	Saverio Guarascio.....	Standard Shipbldg. Corp.	Travelers.....	33 02	14 15
250550	Herman Feiler.....	Schwibisch Bros., Inc..	New Amsterdam.....	44 87	396 57
250525	Sippo Green.....	Third Ave. Railway Co..	Self.....	226 16	1,773 84
350497	Forest R. Snider.....	Nassau Electric R. R.....	Self.....	84 63	30 77
350425	Margaret Smith.....	Adams Realty Co.....	Travelers.....	16 56	461 76
375542	Martin Yanowski.....	Louis Greenberg.....	U. S. Fid. & Guar.....	25 00	150 00
375504	Henry T. Wier.....	Met. Life Ins. Co.....	Zurich.....	102 16	770 46
375502	John Thompson.....	Jas. Shewan & Sons, Inc.	Emp. Mutual.....	15 00	60 00
275558	Thomas Kavannaugh.....	Consumers Biscuit Co..	Maryland Cas.....	27 22	150 00
275604	O. L. Humphreys.....	Chevrolet Motor Co.....	Zurich.....	10 00	*464 34
275608	Charles E. Jeroleman.....	Russell & Stoll Co.....	Aetna.....	35 88	65 05
375337	Marcus Van Steenburg.....	Borden's Farm P. Co.....	Self.....	115 38	68 46
375338	Abraham Wallach.....	M. Kleiman & Sons.....	Aetna.....	60 00	4 92
375464	Clara Tullman.....	Volunteer Holding Corp.	General Acc.....	75 00	100 00
350530	Henry S. Schissel.....	Z. Dershowitz.....	Maryland Cas.....	60 00	*116 15
375682	William Hannigan.....	Bush Terminal Co.....	Self.....	135 00	309 10
375660	Nicholas Talamonte.....	William King.....	Maryland Cas.....	115 40	403 99
375600	Joe Whelan.....	Jas. Shewan & Sons, Inc.	Emp. Mutual.....	258 51	†1,614 13
275540	Frank Hajek.....	Knickerbocker Ice Co..	Self.....	37 50	*400 78
275479	John Hartz.....	Schaumann Talcott, Inc.	Hartford Acc.....	137 50	300 00
275451	Dennis Kennedy.....	Black & White Town Taxi Co.....	Self.....	83 44	886 05
250680	Lena Feller.....	Savoy Dress Co.....	Globe, Ind.....	9 60	23 08
225587	John Camello.....	Sheridan & Milko.....	New Amsterdam.....	60 00	150 00
200568	Frank Baluko.....	S. Weiglass & Co., Inc..	New Amsterdam.....	98 10	32 70
300609	Edward McGahn.....	Rogers, Pect & Co.....	Allied Mutual.....	30 00	30 00
325760	Mary O'Rourke.....	West Side Y. W. C. A.....	Aetna.....	75 00	25 00
200802	Morris Blusten.....	E. W. Bliss Co.....	Aetna.....	20 00	20 00
250499	Frank Genovo.....	George A. Fuller Co.....	Self.....	32 31	344 64
350493	Joseph Sente.....	R. Rothchild.....	Zurich.....	1 50	1 50
325711	Cornelius O'Rourke.....	Walther & Co.....	Allied Mutual.....	41 65	16 66
325769	George Reiff.....	Brooks Bros.....	Allied Mutual.....	10 00	10 00
275497	Marion Ball.....	Modern Engraving Co.....	Maryland Cas.....	23 50	11 75
325669	Ignatz Pawlocitz.....	American Sugar Ref. Co..	Self.....	37 83	84 07
250506	Aaron Greenberg.....	Quality Sheet Metal Wks.	New Amsterdam.....	405 00	*420 00
350652	Mary Sage.....	American Dock Co.....	Emp. Liab.....	36 33	*279 69
300723	Patsy Tapoli.....	Phenix Tube Co.....	Travelers.....	14 02	70 10
Average underpayment per case.....				\$13,712 40	\$52,279 84
					\$450 00

* Indicates cases continued and further payments will be made.

† Indicates that case had not been closed by insurance carrier at the time of investigation. There were one or two other cases of this kind in the list.

‡ Award for medical bill.

§ Award for expenses.

“EXHIBIT B”

1. Letter dated July 19, 1919, from Hon. E. E. Watson, actuary of the Ohio State Fund, prepared in connection with Hon. William C. Archer, deputy in charge of the New York Compensation Bureau, in relation to a comparison between insurance rates in New York and Ohio as submitted to the Moreland Commissioner and the Governor by the manager of the State Fund.

2. Letter from the Moreland Act Commissioner to Mr. Baldwin and his reply, omitted from the report made by him to the Industrial Commission and transmitted to the Governor.

THE INDUSTRIAL COMMISSION OF OHIO COLUMBUS

Refer reply to file N. Y.

JULY 19, 1919.

MR. JEREMIAH CONNOR, *Counsellor at Law*, 80 Maiden Lane,
New York:

MY DEAR MR. CONNOR.—I have your letter of the 17th and note your further reference to the challenge Mr. F. Spencer Baldwin, manager of the New York State Fund, has made of the validity of my computations of comparative costs as contained in our “July 1, 1918, Communication to The Subscribers to the Ohio State Insurance Fund.” It has been my desire to avoid, if possible, an open conflict with Mr. Baldwin, simply for the reason that I did not want to get into a controversy with another State Fund. It has been my preference to do that which would contribute to rather than detract from the success of every State Fund in existence within the United States.

But inasmuch as Mr. Baldwin is pressing his challenge against my computations, then, in defense of the Ohio plan and myself, I am compelled to handle this challenge as such.

I am disappointed to note the arguments advanced by Manager Baldwin and Actuary Mowbray in support of their position, as contained in Mr. Baldwin’s letter addressed to you under date of March 4, 1919, a copy of which you have provided me.

The foregoing letter sets forth the following with the thought of reducing the New York State Fund rates to a point of direct comparability with the Ohio State Fund rates:

I. Loading to be made to the Ohio rates.

	Per cent
(a) Difference in the rating of office payroll.....	9
(b) Loading account merit-rating charges.....	11
Total increase	20

II. Decreases to be made from New York Stock Company Manual rates to derive net New York State Fund rates,

	Per cent
(a) General average reduction from Stock Company Manual rates	14.3
(b) Net reduction for effects of schedule rating.....	6.3
(c) Net reduction for effects of experience rating.....	6.6
(d) Expense of administration of New York Fund....	7.5
(e) Less catastrophe charge	5.0
	25.4

NOTE.— This deduction is 14.3 per cent, then 25.4 per cent.

I accept I-(a) as valid. I reject I-(b) for the simple reason that the net increase produced by the application of the Ohio merit-rating system is $3\frac{1}{2}$ per cent. There should be added to the Ohio rates the Ohio expense of administration, which is $3\frac{1}{2}$ per cent. I shall accept for the mere purpose of this particular analysis a further loading of 2.7 per cent on account of the contribution from self-insurers. Each of the latter three foregoing percentages are those developed by the March 1, 1919, actuarial analysis of the Ohio Fund. Therefore I should be corrected as follows:

	Per cent
I-(a) Difference in rating of office payroll.....	9
I-(b) Loading account, merit-rating system.....	3.5

I-(c) Loading for Ohio expense ratio.....	3.5
I-(d) Loading for self-insurers' contribution to Ohio Fund	2.7
Total	18.7

With reference to the different items under No. II, item (a) is apparently a legitimate deduction. With reference to item (b), not all risks of the fund are schedule rated; rather, only about half. Therefore, this 6.3 per cent should be reduced to about 3.15 per cent. The same statement applies to item (c) that applies to (b). Therefore, item (c) should be reduced from 6.6 per cent to about 3.3 per cent. Item (d), of 7.5 per cent, should be entirely eliminated as a deduction. Mr. Baldwin says the factor of expense ratio should be entirely eliminated from the computation for the reason that the Ohio plan admits of a lower expense ratio than the New York Fund. This is simply to beg the whole question. Has he not attempted specifically to prove that the Ohio Fund is costing more than the New York Fund? The Ohio Fund would, of course, cost more, if all items costing less than the New York Fund are eliminated. Item (e), of 5 per cent, should be entirely eliminated as a deduction. The Ohio rates are loaded the full 5 per cent for the catastrophe loading. Therefore, No. II* should be corrected to read as follows:

II-(a), General average deduction from limited exposure, in reality invalidates the entire computation.

A similar criticism is to be made of their selection of the classification of malleable iron works. The New York stock company rate for this classification is \$3.03. The normal fund rate would be \$3.03, less 14.3 per cent, or \$2.60; yet Mr. Baldwin says the fund makes a special deduction† of this rate to \$2.18 instead of \$2.60.

Another peculiar selection to take, when there were many hundreds from which to choose, were the two classifications of "Cotton spinning and weaving," and "Woolen spinning and weaving."

* See appended Table II of Mr. Baldwin's letter to you under date of March 4th.

† See footnote Table I appended to Mr. Baldwin's letter to you under date of March 4th.

A fair selection, and one in which I am confident Mr. Baldwin and Mr. Mowbray will concur, would be to take the 129 classifications as listed in the July 1, 1918, communication to the subscribers to the Ohio State Insurance Fund. The average Ohio Manual rate of these 129 classifications is 4.35. This 4.35 rate should be decreased by 14.3 per cent, then by 6.45 per cent, thereby reducing the same to 3.49. This brings the New York State Fund rates to the level for direct comparability with Ohio Stock Company Manual rates, 14.3 per cent.

	Per cent
II-(b) Net reduction for effects schedule rating.....	3.15
II-(c) Net reduction for effects experience rating.....	3.3
	6.45

NOTE.—This reduction should be 14.3 per cent, then 6.45 per cent.

Then the average rate of the 12 manual classifications selected by Mr. Baldwin and Mr. Mowbray should be the Ohio Manual rate, plus 18.7, and not 20 per cent, thereby reducing their computed average of 1.754 to 1.73.*

Now deduct the 14.3 per cent from the New York Stock Company rates, as applicable to the 12 foregoing selected classifications, and this derives an average rate for the New York Fund for the same of 2.18. Reduce this 2.18 average rate by the above 6.45 per cent and the net reduced New York State Fund rate for direct comparison with the average Ohio rate of 1.73 becomes 2.04.

But I fear Mr. Baldwin and Mr. Mowbray have made an unfortunate selection in the choice of their 12 classifications. Their whole computation is violently disturbed by their selection of the single classification of blast furnaces. The stock company rate on this classification is \$9.99. To derive the New York State Fund this \$9.99 would normally be decreased by 14.3 per cent, making the same \$8.56.

But Mr. Baldwin says the State Fund rate in this particular classification is subject to special deduction† of \$4.99, instead

* See second paragraph, page 4, of Mr. Baldwin's letter to you of March 4th.

† See last paragraph, page 4, of Mr. Baldwin's letter to you of March 4th.

of the normal deduction of 1.43, thereby reducing the Fund rate to \$5 instead of \$8.56.

In other words, whereas the rate level of the Ohio State Funds, inclusive of course of administration, is 2.42, the rate level of the New York State Fund is 3.49. This is a percentage increased cost of the New York Fund over the Ohio Fund of 44 per cent.*

One other point, I believe, the New York Fund cannot lay legitimate claim to a dividend differential. The March 1, 1919, financial statement of the Ohio State Fund shows that the Ohio Fund had a surplus of \$3,682,471.†

Very truly yours,

EMILE E. WATSON,
Actuary.

MARCH 17, 1919.

HON. F. SPENCER BALDWIN, *Manager, State Insurance Fund,*
230 Fifth Avenue, New York City:

DEAR SIR.—I have read over very carefully your comments in relation to the comparison made by the actuary of the Ohio Commission as between the cost of compensation in Ohio under the Ohio rates and the cost of compensation in New York under the New York Manual rates.

The Governor has asked me to make inquiry and report to him in relation to the *actual cost* of compensation as compared with the benefits received by the injured workmen and their dependents. It seems to be conceded that the benefits in New York and Ohio at the present time are practically the same. Therefore a comparison of costs as between the two States is quite pertinent. Your observations do not relate to *actual cost*, but rather to theoretical comparisons and conditions.

The industries of the State of New York pay certain premiums for compensation insurance. As to such industries the net premiums paid by these employers represent the cost.

Do you agree with the actuary of Ohio as to the difference in cost which he points out as between the Ohio rates and Manual

* See second paragraph, page 4, of Mr. Baldwin's letter to you of March 4th.

rates of New York? This, of course, does not mean difference in cost as between the Ohio Fund and the New York State Fund, but this difference can be readily ascertained by deducting the difference between the Manual and the State Fund rates.

I am informed by Mr. Watson that your modification, paragraph 2 of your letter, of the Ohio State Fund rates is not correct. He states that the Ohio merit-rating system produced an increased premium of about 5 per cent, and that this was stated clearly in his July 1, 1918, communication to the subscribers of the Ohio Fund.

The cost to the industries by insuring in the State Fund is only a small portion of the total cost and, of course, it is lower than the cost of insuring with stock companies. I am not so much concerned with the comparison between the State Fund in New York and the State Fund in Ohio, as I am in a comparison of the general cost in the two States.

What I want to get is any information bearing on the actual cost as between the two States. This is more important from my standpoint in regard to stock and mutual companies than in regard to the State Fund.

What do you say as to the difference pointed out by Mr. Watson as to the cost as shown by the Manual rates and the cost as actually paid by the industries of Ohio? Is there any factor which he did not take into consideration in making this comparison?

Laying aside the question of competition and monopoly, what do you say as to the difference in cost between the employers in Ohio and the employers insured in the New York State Fund?

Conceding that the New York costs, both under stock, mutual and State insurance, are higher than in Ohio, the advantages which the Ohio Fund has, such as lack of competition, are matters to be taken into consideration in recommendations based upon the cost as it actually exists.

Trusting that I have made my position plain in the matter, I remain,

Yours very truly,

JEREMIAH F. CONNOR,

Commissioner.

MARCH 29, 1919.

JEREMIAH F. CONNOR, Esq., *Commissioner, No. 80 Maiden Lane,
New York:*

OHIO RATES

DEAR SIR.—With further reference to your communication of March 17th, making inquiry concerning the comparative cost of compensation insurance in Ohio and New York, I enclose a memorandum on this subject prepared by Mr. A. H. Mowbray, actuary of the New York State Insurance Fund.

In accordance with your suggestion, the method of comparison adopted in my previous communication has been modified to show the actual cost of compensation insurance to employers in the two States without allowance for differences in operating conditions, except insofar as such differences are actually reflected in collected rates. The only factors of increase that have been applied to the Ohio Manual rates are an increase of 5 per cent for the effect of merit-rating, as estimated by Mr. Watson, and an increase of 9 per cent for the effect of the method of rating the office payroll in Ohio, for which again Mr. Watson's estimate has been used. In the case of the New York Manual rates, a reduction of 10 per cent has been allowed as a conservative estimate of the effect of merit and experience rating. I trust that this method of comparison, the results of which are shown in Mr. Mowbray's memorandum, will impress you as a fair one.

* * * (The balance of the letter relates to reserves.)

Yours very truly,

F. SPENCER BALDWIN,

Manager State Insurance Fund.

STATE INDUSTRIAL FUND

Memorandum for Mr. Baldwin In re Comparison between New York and Ohio Rates, as made by Mr. Watson in his July 1, 1918, Communication.

It is my understanding that it is at present desired to establish this comparison upon a fair basis of collected rates, giving the Ohio Fund the benefit of its exemption from taxation and State

payment of its expenses and disregarding fluctuations between individual classifications produced by variations in the working out of the several merit-rating plans.

If the individual classifications are not to be compared, we may apply an average factor for the effect of the Ohio merit-rating plan and the New York schedule and experience-rating plans. If, however, individual classifications are to be compared, it would not be proper to use a single average factor, since the real factor in the case of Ohio would always be an increase on manufacturing classifications and a decrease on contracting classifications, and in New York manufacturing classifications only would be affected only by schedule rating.

Mr. Watson has stated to Mr. Connor that the average effect of merit-rating in Ohio is an increase of 5 per cent in the collected rates over the Manual rates. The method of rating of the office payroll in Ohio, as compared with the method in New York, is equivalent to a 9 per cent higher rate on the operating classification. Therefore, the Ohio collected rates may be taken to be 114 per cent of the Manual rates. In New York about 50 per cent of the premiums are collected on classifications subject to schedule-rating, and on the average, according to Mr. Senior's reports, this produces between 6½ and 7 per cent credit, so that we may say on the average the premium income is decreased about 3 per cent by operating sufficiently long to clearly determine what its effect will be. The earliest tabulation prepared by Mr. Senior seemed to indicate an average credit running as high as 20 per cent, but I think this was probably due to the company's having returned for experience-rating first the largest and best risks, which have a tendency to produce credit on the average. Our own risks that have been rated have produced a credit of about 7 per cent. It will, therefore, be conservative to say that the New York collected rates are 90 per cent of the Manual rates.

The rates given by Mr. Watson in his statement are not the present New York Manual rates, as he has not taken into account the 5 per cent increase made effective December 31, 1917. Therefore, in order to make the New York rates quoted by Mr. Watson comparable with the Ohio rates we should take 94½ per cent on the figure shown in column 3 of his comparison (90 to 105

per cent). The New York State Fund did not increase its rate by 5 per cent used by the stock company December 31, 1917, and its Manual rates, with a few exceptions, are 90 per cent of those quoted by Mr. Watson as the New York rates, making the 10 per cent reduction for the effect of schedule and experience rating, bringing the New York State Fund collected rates to 81 per cent of the rates shown in Mr. Watson's comparison as the New York rates.

Mr. Watson lists 129 classifications, on two of which he says the New York underwriting practice is such that they are not comparable with the Ohio rates.

I have taken the arithmetical averages of the rates on 127 other classifications for the Ohio State Fund, the New York stock companies and the New York State Fund on the above basis. These averages are, of course, not average collected rates of the several sets of carriers, as they are not weighted by the correspondent payrolls, but the classifications are sufficiently representative that I believe the ratio of these averages would not be altered materially if the several classifications were weighted by the corresponding payrolls. The averages are as follows:

Ohio Manual	2.04
Ohio collected	2.33
New York Manual (stock).....	4.35
New York collected (stock).....	3.89
New York collected (State Fund).....	3.32

The New York State Fund paid a dividend of 10 per cent for risks issued during the ninth period, and its financial condition at the present time is such that while without guaranteeing a dividend we can readily anticipate a dividend of at least 10 per cent on the current or tenth period. Therefore, its rates in such a comparison should receive a further 10 per cent discount, and its rate would then be \$3.

The New York Manual provides certain underwriting rules for division of payroll, which have considerable importance on the application of Manual rates. I do not find such rules in the Ohio Manual and I do not know whether their practice corresponds with the New York practice or not. Material differences

in this regard might make a substantial variation in the average rate.

I am not quoting here the comparison classification by classification, although I have the figures prepared and can furnish them, if desired, it being a mere matter of copying.

March 22, 1919.

A. H. MOWBRAY,
Actuary.

REPORT OF THE RESULTS OF AN ACTUARIAL INVESTIGATION OF

The operation of the Workmen's Compensation Law of New York, The Transactions of Insurance Carriers thereunder and the Condition of the State Fund, with Opinions and Recommendations made, and this report rendered, under the direction of Honorable Jeremiah F. Connor, Commissioner under the Moreland Act, by appointment of the Governor. Given at my office, New York City, this 15th day of November, 1919.

The Workmen's Compensation Law went into effect as regards the insurance, and payment, of Compensation, upon the 1st day of July, 1914.

It provided for administration by a Commission (now the State Industrial Commission) and for insurance in the State Fund, or in a stock or mutual insurance company licensed to do business in the State or by giving the required security and obtaining the privilege of self-insurance.

ADJUDICATION OF CLAIMS

The power to hear and to determine claims was vested in the Commission. In practice it was done by a single Commissioner or, more frequently, a Deputy Commissioner, and his action was approved and adopted by the Commission.

For about four years, viz: April, 1915, to May, 1919, direct settlements were permitted subject to the Commission's approval; this permission was withdrawn by the legislature this year because of gross underpayments exposed by you.

RATES AND LIMITS OF COMPENSATION

The compensation was fixed by the Law at two-thirds wages during total disability (excluding the first two weeks except where the disability extends beyond forty-nine days) due to accidental injury while at work, limited to not more than \$15.00 per week and to not exceeding two-thirds wages in all to dependents (built up of certain components percentages for various dependents) limited to \$66.67 per month — i.e., for instance, to widow during widowhood, children until 18 years of age and various others during dependency — in event of death due to such accident.

This compensation was then considered good and, indeed, ample; but, since then, there has been such increase in wages, to wit; about 60 per cent, while the increase in compensation was kept down to about 25 per cent because of the limits to compensation, that, especially in view of the greatly increased cost of living, the limits should now be modified to \$25.00 a week limit of disability benefit and \$150.00 a month limit of wages upon which compensation to dependents is calculated. This would not do more than keep pace with the increase in wages and in cost of living, and would not be a heavier burden upon industry, in proportion, than were the limits of the present law, at the time it was enacted.

SECURITY FOR LONG TERM PAYMENTS

Section No. 27 of the Workmen's Compensation Law provided that the Commission might receive, or require to be paid, for deposit in the State Fund as part of an aggregate, indivisible trust, the present value of death benefits, total permanent disability benefits and permanent partial disability benefits, payable for 104 weeks or longer. This (in its earlier form) was held by the Appellate Division in 1916 to be intended to be exercised only in particular and exceptional circumstances and not to authorize a rule that, for instance, "all self-insurers should be required so to deposit." (*Adams v. New York, etc., R. Co.*, 175 App. Div. 714). The Court of Appeals affirmed this (220 N. Y. 579), but upon the sole ground that the section, as then drawn, did not, in the Court's opinion, "apply to an award made to a widow" because it "fails to provide for — determining the contingency of the widow's remarriage." This objection is cured by the amendments of 1917 which are specific in both these regards.

The bad effect of this interpretation by the Appellate Division, interfering with the exercise by the Commission of its discretion, is illustrated by the fact that already one of the self-insurers, represented by counsel upon the appeal, The Brooklyn Rapid Transit Co., has passed into the hands of a receiver and the appellant, a railroad company, might find insolvency facing it, if it were not for the government's guaranty of returns. Awards calling for payment of compensation for very long possible periods are, in consequence of this decision, merely claims against the receiver of the Brooklyn Rapid Transit Co. and might become such against the insolvent estate of any self-insurer or insurance company.

Payments of such compensation might in some cases continue 75 years or longer and the wisdom of requiring them to be secured by a trust fund, rather than to depend upon the continued solvency of a self-insurer or an insurance company, must be obvious. Therefore, if any change is needed (and the *Sperduto* decision, since handed down, 186 App. Div. 145, aff'd by 226 N. Y. 73, indicates there is) to confer full power to require this, it is desirable, in the interests of actuarial soundness, that it be made; and, in view of the liquidation of both a stock and a mutual insurance company, with awards for compensation outstanding against them, the wisdom of providing by law that such deposits must be made in every case is plainly indicated, even though an insurance be present.

COMMUTATION INTO LUMP SUM PAYMENTS

Section 25 of the Workmen's Compensation Law provides, in part: "The commission, whenever it shall so deem advisable, may commute such periodical payments to one or more lump sum payments to the injured employee or, in case of death, his dependents, provided the same shall be in the interest of justice."

Under this several things have taken place which are, or may easily become, serious evils, among which may be mentioned:

1. The allowance of such commutations without good reason and without assurance that the beneficial use for which the commutation is alleged to have been asked for, is actually made of it.

Only clear benefit to the claimant can justify commutation; for one of the evils the law was intended to correct was the payment

of large sums which could be wasted or lost, leaving the need as great as before.

Yet "final adjustments," not contemplated by the law at all, have been introduced by the conjunction of trial deputies annoyed by continued and insistent claims, of insurance companies or self-insurers greedy to save something this way and of claimants eager to get hold of "a bunch of money," regardless of their best interest.

This has often resulted in gross underpayment, and it also made the greedy, unwise claimants willing victims of "hold-ups" by "runners" or by bribe-takers who, they thought, would help them get a "big lot" right away.

These were usually hit-or-miss "adjustments" really not commutations and wholly unauthorized by the law.

2. Commutation of compensation payable during dependency.

For such commutation no probabilities are available; for how compute *when* one may cease to be dependent?

Presumably the decision of the Appellate Division in *Bailey v. Columbia Rope Co.*, 184 App. Div. 718, will put an end to this; at least one vile case of both fraud and bribery, however, is traceable to it.

3. Commutation of widow's compensation, which is payable during widowhood, only, with a certain sum upon remarriage.

Here a peril is introduced by the recent decision in the *Dood* case by the Court of Appeals, in which the use of the remarriage tables in such commutation is held to be lawful. Obviously a moral hazard is always present since the claimant knows the likelihood of her early remarriage and the Commission cannot know.

Provision should, in any case, be made that no such commutation as this be allowed. But would it not, in view of the abuses, be better to prohibit commutations, altogether? They can never be quite fair, since they are based on averages and average rest upon many cases, not the individual case; and why on any ground, however plausible, endanger this provision for maintaining injured workmen and their dependents, by letting them take the risk of wasting or losing the money?

Certainly, if to be allowed at all, very unusual safeguards against abuse are necessary.

THE INSURANCE CARRIERS

The Law permits a choice of insurance carriers, i.e., a stock insurance company, a mutual insurance company, the State Fund or, upon approval by the Commission and depositing securities as required by it, self-insurance.

The amount and proportion of earned premiums of each of the classes of insurance-carriers, omitting self-insurers (increasing State Fund premiums to insurance company rates, for purposes of comparison) were in the 4½ years under the Law, ending December 31, 1918, as follows:

Earned Premiums, 4½ years, Ending December 31, 1918.

	Premiums	Per cent
Stock Ins. Companies, non-par.....	\$64,761,869	73.8
Stock Ins. Companies, par.....	1,502,967	1.7
Mutual Insurance Companies	9,521,616	10.85
State Fund	11,998,455	13.65
Total	\$87,784,907	100.00

The premiums which would have been paid by self-insurers, had they also been insured at these rates, I estimate would have been not less, at the very least, \$45,000,000 for the 4½ years, making a grand total of at least \$133,000,000.

For the year 1918, the amount and proportion of earned premiums, on the same basis, were as follows:

Earned Premiums — Year 1918

	Premiums	Per cent
Stock Ins. Companies, non-par.....	\$22,534,589	69.8
Stock Ins. Companies, par.....	1,198,072	3.7
Mutual Insurance Companies	4,580,722	14.2
State Fund	3,982,678	12.3
Total	\$32,296,061	100.0

I estimate the premiums which would have been paid by self-insurers, had they insured at the same premium rates, would have been at the very least \$20,000,000 for 1918, making a grand total of at least \$52,000,000 for that year.

Prior to the enactment of the Law, insurance of employers was, in New York, exclusively in stock insurance companies doing business on the non-participating plan; there was no provision for forming a mutual insurance company or for licensing one, organized in another State. These companies, therefore, had the advantage of being already in the field. They have, however, slowly but steadily lost ground.

Provision for organizing mutual companies in New York was made in the laws at the same session at which the Workmen's Compensation Law was enacted, but permission for outside mutuals to enter New York was deferred two years. The State Fund was set up by the law when it went into effect, July 1, 1914. The organization, by employers in near-by states, of stock companies to do a participating business exclusively, commenced shortly before the enactment of the law, and shortly after its enactment the licensing of such to do business in New York commenced; their principal activity, however, has been in the last two years of the period. All of these are, essentially, mutual institutions.

COMPARISON OF CLAIMS AND EXPENSES

The experience of the various classes of insurance carriers as regards losses incurred and expenses of management during the 4½ years under the law, ending December 31, 1918, is supplied by the Assistant Actuary and Auditor of the New York Insurance Department, as follows:

Claims and Expense Experience, 4½ Years to December 31 1918

	Earned premiums	Losses incurred	Per cent	Expenses	Per cent
Stock insurance companies, non-participating.....	\$64,761,869	\$38,597,830	60	\$24,573,976	38
Stock insurance companies, participating.....	1,502,967	729,815	48	269,448	18
Mutual insurance companies.....	9,521,616	4,667,938	49	2,038,120	21
State Fund.....	11,998,455	6,919,972	58		
Total.....	\$87,784,907	\$50,915,555	58	\$26,880,544	35.5

In the foregoing, as before, the premiums of the State Fund are adjusted,* for purposes of comparison, so as to bring them up to

* This adjustment is by myself.

the level of the insurance company premiums and its expenses are omitted because paid by the State out of the public treasury for the first two years.

The experience for the year 1918, is also supplied, as follows, (again with adjustment of State Fund Premiums):

Claims and Expense Experiences, 1918

	Earned premiums	Losses incurred	Per cent	Expenses	Per cent
Stock insurance companies, non-participating.....	\$22,534,589	\$11,411,726	51	\$8,161,558	36
Stock insurance companies, participating.....	1,198,072	527,885	44	202,253	17
Mutual insurance companies.....	4,580,722	2,014,942	44	915,250	20
State Fund.....	3,932,678	1,660,472	41	246,640	6
Totals.....	\$32,296,061	\$15,615,025	48	\$9,525,701	29

These figures furnish the explanation of the loss in the proportion of the total business transacted by the non-participating stock insurance companies, especially as a large part of the savings made by the participating stock companies, the mutual companies and the State Fund has been applied to reduce the cost to policyholders. As the facts become better known, non-participating insurance in stock insurance companies must be less and less acceptable, if permitted at all.

That, despite the excessive cost of insurance furnished by them, they were one of the two chief beneficiaries* of the "direct settlements," now prohibited by law, under which, the Deputy Commissioner in charge of workmen's compensation testifies, about \$5,700,000 of underpayments of claimants is indicated as a result of the investigation so far made, explains why this form of insurance is most offensive and objectionable to workmen.

EFFECT OF INCREASE IN WAGES

Between 1914 and 1918 there was an increase in wages, as ascertained by the State Statistician, of at least 60 per cent; during the same period, because of the limits upon compensation, as already herein set forth, the proportion of increase of compensation was only about 25 per cent.

Rates of insurance premiums are applied to the entire payrolls, i. e., the total wages and salaries of insured employees;

* The other being self-insurers.

premiums were, therefore, increased by the full 60 per cent, *i. e.*, without any increase in rates of premiums, the premium income was increased in the ratio 100 to 160.

Rates are computed, approximately, on the basis that net claims would be 60 per cent of the premiums; assuming this was true in 1914, 25 per cent of this, added to it, would increase it in the ratio of 60 to 75.

That is, by reason of the limits upon compensation, alone, the claim rate should, by reason of increase in wages in 1918 be 75/160, that is, less than 50 per cent of the premiums, instead of 60 per cent.

The increase in rates, fully effective in 1918, yet more increased the premium income without adding to the claims in the least; this accounts for the proportion of claims to premiums falling, in 1918, in some classes of insurance carriers well below 50 per cent.

LOW CLAIM RATIOS HAVE ADVANTAGED WHOM?

The resultant low claim ratios, in the cases of mutual companies and the State Fund, inure at once to the benefit of the policyholders, increasing the fund for dividends to them.

In participating stock companies this should also ultimately be the case, although the reserve law applicable to such, will require that claim reserves be set up, as if 65 per cent of premiums were required to meet the claims, not to be released for three calendar years after 1918.

In nonparticipating stock companies in which the earned premiums were \$22,534,589 in 1918, which is yet 69.8 per cent of the whole, this extra profit, due to wages, and, therefore, premium income, increasing at a higher rate than claims, will remain concealed for more than three years to come and then will inure to the profit of the stockholders in these companies.

SIGNIFICANCE OF RELATIVE LOSS RATIOS

The significance of the relative loss ratios is largely that mutual insurance companies and participating stock insurance companies and, in the State Fund, the special groups are composed of specially selected risks, whereas the business of the nonparticipating stock companies and of the State Fund in its general

groups is not so closely selected, usually. No doubt accident preservation and safety measures are also more common and more effective in the mutual and the participating stock insurance companies and in the special groups and the special experience rated risks in the State Fund.

As regards all these, also, there is likely to be present — and usually is present — an overstrong desire to keep down claims by reducing awards so far as possible; this is illustrated by the underpayments uncovered by you in respect to “direct settlements,” “final adjustments” and the like, indicating an aggregate underpayment by a vast amount, thorough investigation and rectification of which is now promised by the Commission. The activity of too stubborn resistance to claims, because of too direct an interest in the result, has been deplorable; its consequences indicate that the fundamental principle that to supply this compensation is a public matter to be defrayed from fairly apportioned taxes upon payrolls, instead of a private matter of the employer being held directly liable, should be closely adhered to.

SIGNIFICANCE OF EXPENSE RATIOS

The larger expense rates to premiums of all the insurance companies, than in the State Fund, are due very largely to the competition and to the consequent use of agents or other solicitors. The rate is highest in the nonparticipating stock companies, because agents are essential to get and hold business; next higher in the mutual companies because agents are very often essential; next in the participating stock companies because solicitors are less essential, since most policyholders have an investment in the stock; and lowest in the State Fund because least of all employing solicitors.

Even in the State Fund, however, somewhat more than 6 per cent (6.2 per cent exactly) of what would be the premiums in an insurance company is still required, very largely because of competition and otherwise chiefly because the overhead is spread over only 12.3 per cent of the premiums, instead of 100 per cent, whereas, in Ohio, where all the insurance is in the State Fund, my recent investigation found the expenses to be less than 1.8 per cent of what the premiums would have been in the insurance companies at their regular, usual rates.

COMBINED LOSS AND EXPENSE EXPERIENCE OF CARRIERS

The combined loss and expense experience of the insurance carriers, omitting the self-insurers (again including State Fund premiums as if at the same rates as the insurance companies), for the year ending December 31, 1918, is as follows:

Combined Loss and Expense Experience, 1918

	Earned Premiums	Losses Plus Expenses	Per Cent
Stock Ins. Cos., nonpar..	\$22,534,589	\$19,573,284	87
Stock Ins. Cos., par.....	1,198,072	730,138	61
Mutual Ins. Cos.....	4,580,722	2,930,192	64
State Fund	3,982,678	1,907,112	47
	\$32,296,061	\$25,140,726	77

Here the superior showing of the State Fund is unobscured; its much lower expense makes the total net cost materially lower than in other insurance carriers.

SIGNIFICANCE OF THE COMBINED LOSS AND EXPENSE RATES

The saving (\$2,961,305, equal to 13 per cent of premiums during 1918) in the nonparticipating stock insurance companies is profit for the companies and their stockholders and in no way inures to the advantage of insured employers. Of this, as has been shown, 10 per cent of the earned premiums, \$2,250,000 in round numbers, is due to wages, and therefore premiums computed upon wages, having increased 60 per cent, while compensation, owing to low limits, increased only 25 per cent.

The saving (\$467,934, equal to 39 per cent of premiums during 1918) in participating stock insurance companies goes, in part, to compensate stockholders of those companies and, in part, in the form of dividends, to reduce the cost to insured employers.

The saving (\$1,650,530, equal to 36 per cent of premiums during 1918) in mutual insurance companies is applied, 5 per cent of the premiums to the catastrophe surplus and the remainder, 31 per cent, to a fund for dividends to reduce the cost to insured employers.

The saving (\$2,075,566, equal to 53 per cent of the premiums, at the stock company rates, in 1918) in the State Fund is represented as follows: 14½ per cent of these premiums in reduced

rates, 5 per cent of the reduced premiums (the actual State Fund premiums) to the catastrophe surplus and the remainder, $34\frac{1}{4}$ per cent of the premiums at the stock company rates, as a fund for the payment of dividends further to reduce the cost to insured employers — a saving to them of $48\frac{3}{4}$ per cent for the year 1918, as compared with the full rates of insurance companies.

DIVIDENDS PAID BY MUTUAL AND PARTICIPATING STOCK INSURANCE COMPANIES

It is not possible for me to report to you at this time what reductions in costs to insured employers have actually been realized by them because of dividends from participating stock insurance companies or mutual insurance companies, because the dividends paid, or allowed, or set up for payment, upon premiums paid by New York employers are not separately reported by these companies to the Superintendent of Insurance. In round numbers, the dividends upon the premiums in these companies for 1918 were, however, somewhat less than 25 per cent of such premiums.

IMMEDIATE SAVINGS TO EMPLOYERS INSURED IN THE STATE FUND

The State Fund, because of its lower expense, has from the outset charged lower rates of premiums than the insurance companies. The reduction in rates were, for the first six months period, $8\frac{1}{3}$ per cent; for the following five periods of six months each 20 per cent, and since June 30, 1917, $14\frac{1}{2}$ per cent. These reductions, together with the dividends allowed in respect of each six months period, resulted in savings to the policyholders, insured in the State Fund, as compared with the premiums they would have paid stock insurance companies, as follows:

PERIOD	Reduction in premiums	Dividends	Total savings
6/30/14-12/31/14.....	\$62,705 90	\$162,096 19	\$224,802 09
12/31/14- 6/30/15.....	149,318 24	210,741 73	360,059 97
6/30/15-12/31/15.....	169,085 05	159,755 01	328,840 06
12/31/15- 6/30/16.....	212,065 12	69,656 31	281,721 43
6/30/16-12/31/16.....	261,075 19	75,979 12	337,054 31
12/31/16- 6/30/17.....	278,584 19	77,638 29	356,222 48
6/30/17-12/31/17.....	269,736 36	51,913 77	321,650 13
12/31/17- 6/30/18.....	248,450 43	156,989 05	405,439 48
6/30/18-12/31/18.....	316,768 37	398,483 62	715,251 99
12/31/18- 6/30/19.....	287,211 04	386,370 40	673,581 44
	\$2,254,999 89	\$1,749,623 49	\$4,004,623 38

The total savings are thus seen to be \$4,004,623.38 for the five years.

The total premiums received by the State Fund during the five years are \$11,597,187.14, which were reduced by dividends, paid and payable, to \$9,847,560.65, net; and the premiums that would have been paid the stock insurance companies, had the policyholders insured with them on the nonparticipating plan instead of in the State Fund, are \$13,852,187.03 for the five years.

The total savings, \$4,004,623.38, amounted to an average saving throughout the five years of 29 per cent upon the total premiums, computed at the insurance company rates, for the five years.

At this same rate of saving—and the rate of saving should have been greater, had all the employers been insured in the State Fund, because, as experience shows, the expense rate would have been much lower—the employers in the State of New York who during the period of 4½ years ending December 31, 1918 (figures for the first six months of 1919 are not obtainable), paid to stock insurance companies the vast sum of \$62,075,883, would have saved 29 per cent thereof, or no less than \$18,002,006 during such period, by insuring in the State Fund. The Deputy Commissioner in charge of workmen's compensation testifies, also, that no less than \$5,700,000 more would have been paid to injured workmen and their families—they having been underpaid no less than this vast sum by the insurance companies and self-insurers through manipulation of "direct settlements" alone.

CONDITION OF THE STATE FUND JUNE 30, 1919

The financial condition of the State Fund at close of business on June 30, 1919, at the end of its fifth year of operation, I find, as the result of an audit of its accounts and upon the certificate of the State Treasurer as to the cash and securities held for the State Fund, to be as follows:

FINANCIAL STATEMENT JUNE 30, 1918

ASSETS

Investments	\$5,170,727 10
Cash in bank	484,237 35

Interest accrued	\$59,179 91
Due from policyholders	465,232 52
	\$6,179,376 88

LIABILITIES

Reserves to provide for

Payment of claims.....	\$3,924,765 26
Payment of claim expense.....	156,990 61
Unexpired risks (unearned premiums).....	173,080 74
Expenses of Commission.....	229,495 22
Expenses of State Fund.....	384,934 50
Market values under par.....	109,630 61
Readjustment of rates	30,000 00

Surpluses

Dividends payable	386,370 40
Catastrophe surplus	623,510 80
General surplus	160,598 74

\$6,179,376 88

The total surplus is \$1,170,479.94, which is 23.4 per cent over and above all reserves and liabilities.

In the foregoing, the following changes have been made by me from the statement as submitted by the State Fund to my auditors:

The sum of \$160,644.83 is added to "Due from policyholders," consisting of \$89,639.56, entered in July and August, 1919, being items not included in the State Fund statement supplied me, and of \$71,005.27 due under the Metropolitan By-Products policies, original and with the receiver. In consequence of these additions I have, however, increased the unearned premium reserve by \$46,111.78 and added the item \$30,000 as reserve for readjustment of rates. The net increase of surplus, due to these changes, is \$84,533.05.

RESERVES SET ASIDE BY THE STATE FUND ARE AMPLE

I have caused several special investigations to be made to determine the degree of conservation and safety evinced in setting

up the various values, reserves and surpluses and beg to advise the result as follows:

1. The net result of setting up a reserve to cover market values under par is to reduce the general surplus by \$109,630.61; whereas, if the assets were valued by the standards applied by the Superintendent of Insurance in valuing, as of the same date, the same securities when held by insurance companies no less than \$135,862 would be added to the general surplus as certified by the Superintendent.

2. I have investigated the method of computing the claim reserves and the factors used in such computations, and find the same sound and adequate.

3. I have also, for comparison only, caused the reserves for payment of claims to be computed in the manner prescribed for stock insurance companies by the Insurance Law of New York, basing the computations upon premiums equal to the premiums chargeable by such companies; and I find that the reserves actually set up by the State Fund for payment of claims, to wit: \$3,924,765.26, and for claim expenses, to wit: \$156,990.61, are in the aggregate larger by \$56,805 than the reserves for these purposes which the State Fund would be required to carry were it a stock insurance company.

ASSETS OF THE STATE FUND UNDERSTATED

No credit is taken in this statement for net additions that will be made to premiums as the result of pay-roll returns and audits to be received after the statement was closed; a large sum amounting to some hundreds of thousands of dollars over and above dividends payable there against will be realized, which will increase the surplus by so much.

THE STATE FUND SOLVENT AND STRONG

The investments of the State Fund are all of a high class, amply secured and not in default as to principal or interest.

The State Fund is solvent and possessed of unimpaired reserves, at least equal in value to all liabilities, accrued or to accrue, and of surplus sufficient to warrant dividends to all policyholders at the rates provided and to provide for catastrophes with a margin over to cover against fluctuations in experience.

CHECKS AND BALANCES IN STATE FUND ADEQUATE

The methods adopted by the State Industrial Commission with relation to the State Fund for covering all receipts into the State treasury and for protecting the funds against unauthorized disbursement have been carefully investigated and have been found to be adequate and effectual.

The general books of the State Fund have been kept in balance; posting into individual ledgers is considerably in arrears but no discrepancies, deemed important or significant, have been found upon audit.

We have made a sufficient audit to satisfy ourselves that all receipts are accounted for and all disbursements represented by vouchers.

Closer co-operation between the State Fund and the representative of the State Treasurer in the Commission as to allocation of disbursements, both as regards claim and expense payments, to the end that these accounts in the State Fund may at all times be up to date, is most desirable.

GROUPS AND CLASSES IN THE STATE FUND

The law provides for groups and classes in the State Fund and authorizes the Commission to create and to readjust such groups and classes.

Under this authority the State Fund now has six general groups, within which policyholders are classed with or without special experience rating, and twenty-five special groups, all of which, except nine, are of single employers.

In round figures at this time 55 per cent of State Fund premiums are paid by the General Groups and 45 per cent by the Special Groups.

MODES OF DECLARING AND ALLOWING DIVIDENDS

The mode of declaring dividends prescribed by the law is "pro rata" on premiums within the group, excluding, however, premiums of insured employers whose losses for the period exceed their premiums for the same period.

In the general groups this gives each insured employer, excluding those whose losses exceed their premiums, the same rate of dividend; likewise, in eight of the special groups, composed of a number of insured employers. In Group No. 17, the so-called Wynkoop Group, it is nominally the case, but under Mr. Wyn-

koop's method of doing business one-half the aggregate dividends go to him for services and he is supposed to redistribute the remaining one-half of this aggregate in proportion to the excess of premiums of each insured employer over the losses under his policy. To some extent this, in view of such an agreement being known and contemplated, seems an evasion of the provisions of the law for pro rata dividends.

In the special individual groups "pro rata" means, since there is but one employer in the group, the return of his own premiums over and above losses, expenses, catastrophe percentage and a proper margin for errors in estimates of items that are not finally determined, provided the earnings and surplus of the State Fund, as a whole, enable so much to be paid.

WHAT SPECIAL INDIVIDUAL GROUPS ARE AND HOW DEALT WITH

Employers of at least 2,500 employees, with payrolls of at least \$1,000,000 and semi-annual premiums of at least \$7,500, are eligible, under the rules of the Commission, if otherwise acceptable, for a special group.

The method of dealing with them, as reported to you, is, in brief, as follows: Advance premiums are collected upon admission; temporary adjustment is made, both of additional premium payable and dividend allowable, as well as new advance premium payable, as soon after the insurance period expires as payroll returns (and audit, if such can be made) are in and the loss experience worked up; final adjustment is made at a later time, often much later, when both the premiums payable and the loss experiences are definite.

UNDERWRITING HISTORY OF THE STATE FUND

At the end of each successive six months' period the financial condition of the State Fund, as shown by its actuarial reports, has been as follows:

PERIOD ENDING	Assets	Reserves	Surplus
Dec. 31, 1914.....	\$654,493 53	\$411,080 78	\$243,412 75
June 30, 1915.....	1,025,014 46	690,638 18	334,376 28
Dec. 31, 1915.....	1,353,039 07	975,639 62	377,399 45
June 30, 1916.....	1,727,869 91	1,526,027 94	201,841 97
Dec. 31, 1916.....	2,514,762 51	2,261,583 07	253,179 44
June 30, 1917.....	2,941,819 74	2,922,356 32	19,463 42
Dec. 31, 1917.....	3,754,261 65	3,355,579 43	398,682 22
June 30, 1918.....	4,333,743 76	3,749,130 61	584,613 15
Dec. 31, 1918.....	5,453,212 08	4,075,288 81	1,377,923 27
June 30, 1919.....	6,179,376 88	5,008,896 94	1,170,479 94

The condition was at all times really better than as shown, because, except in the statements June 30, 1917, to June 30, 1918, inclusive, no credit was taken for unrealized payroll additions, and in those statements credit for a much smaller amount than could safely have been entered as assets.

Up to the period ending June 30, 1916, dividends were earned and paid, in respect of each six months' operations, to the insured employers (omitting those whose losses exceeded their premiums) of most of the groups, both general and special.

During each of the three six months' periods from December 31, 1915, to June 30, 1917, no surplus was earned, a net loss was realized and no dividends were paid, as respects these periods, to insured employers in the general groups; dividends were paid, however, as respects each special group which, under the method already set forth, was found to have incurred losses, less than its net premium, i. e., the full premium after deduction of expense charge and the 5 per cent for the catastrophe surplus.

The apparent underwriting loss during this period was due to this: At the outset the rates of the State Fund were made $91\frac{2}{3}$ per cent of the rates of the insurance companies. At the end of the first six months' period, they were reduced to 80 per cent, and through the entire period of underwriting loss they were kept at this figure. Had they been $91\frac{2}{3}$ per cent, there would have been no such loss.

On June 30, 1916, it was shown by the actuarial statement that there was but \$14,127.43 clear general surplus over and above the catastrophe surplus which stood at \$187,714.54. Yet dividends of \$95,637.79 were allowed special groups, as respects the six months' period then ending, because it was asserted that these insured employers would withdraw and ruin the prestige of the State Fund — this, notwithstanding that dividends can only be paid out of earnings and although their premiums in the State Fund already represented a reduction of 20 per cent.

On the same ground, dividends were allowed special groups in respect of the six months ending December 31, 1916, of \$64,168.85, although the catastrophe surplus was much reduced and there was no general surplus; and again, on the same ground, as respects the six months ending June 30, 1917, in the amount

of \$58,319.49, although only \$19,463.42 remained of the catastrophe surplus and there was no general surplus.

The leeway of the unascertained payroll additions to premiums brought this out without serious consequences; but it was not good underwriting to create a condition which spelled ruin if dividends were not forthcoming (if such a condition in fact existed), nor to pay the dividends, though the State Fund earned no surplus (unless, as claimed, that condition made it imperatively necessary). Whichever it was, it could not be good underwriting.

SOUND ACTUARIAL PRINCIPLES REGARDING DIVIDENDS

The following principles are fundamental to sound mutual underwriting:

Dividends may not be paid to any group or class, if there be not clear surplus of the Fund from which the same may be paid, without impairing any of its necessary reserves or its provision for meeting catastrophes.

Dividends, in general, should be free from current earnings, except as surplus which has been held back until the amount is definitely ascertained, is further distributed.

The State Fund is one and indivisible and, although certain groups, taken by themselves, show savings, there are no earnings to divide, unless the Fund, as a whole, has earnings.

DIVIDENDS AS A MEANS OF SPECIAL EXPERIENCE RATING

Undoubtedly, it is more satisfactory to insured employers, in general, to have the earnings of the State Fund so distributed as to recognize the actual experience under individual policies; and, undoubtedly also, such should contribute to encourage accident prevention and safety precautions.

This has been utilized elsewhere to good advantage as in the State Fund of California; it is also the fundamental idea in both the special individual group plan and the special experience rating plan of the State Fund here.

The fullest recognition of it is advisable and an amendment of the law which will permit the Commission to distribute surplus in this manner, instead of pro rata within the group, is recommended.

ADEQUATE ADVANCE PREMIUMS

To avoid any possibility of such a situation arising again, as in the three six months' periods mentioned, the provision of the law, calling for the prompt payment of advance premiums, computed upon honestly-made estimates of payrolls, should be enforced in all cases; so that, among other things, there will be no misunderstanding that payment of the full premium in advance is required and that a dividend is a return of premium and not a reduction, before payment of premium, in an accounting on a cost basis.

The law now provides that dividends shall be applied upon, and toward the payment of, the next premium payable. Behind this provision and the delay in auditing payrolls and in ascertaining rates and amounts of dividends, the long delay in collecting premiums is screened and by these things excused.

To hold the management more strictly accountable for failure to do the necessary things promptly, the provision for so applying dividends should be repealed and, instead, the provision be strengthened, requiring adequate premiums to be paid in advance to maintain the insurance in force, without regard to whether dividends are already declared or not. This would put the management of the State Fund up against the necessity for prompt action, which it would not dare neglect.

It might be found desirable, in such case, to declare a preliminary dividend and supplement it later; but such would answer well here as it has, elsewhere.

The rates of dividend in the State Fund of Pennsylvania, which I recently investigated for the State Insurance Board, are ready promptly at the close of the period, in respect of which they are declared.

INSURANCE AND PAYROLL-AUDITS IN CERTAIN EMPLOYMENTS

In several specially dangerous classes of employments, such as window-cleaning, house-wrecking, and trucking, very particular attention requires to be given to payroll-auditing, which should be frequent and thorough and should also be supplemented by other modes of investigation.

Large sums in premiums have been lost in some cases, in consequence of neglect, or worse, and, in some instances, bare-faced fraud has been practiced.

The Workmen's Compensation Law was enacted to make provision for injured workmen and for the dependent families of workmen who die from their injuries. The State Fund has the duty to provide insurance of the payment of this compensation, most of all in employments where the hazard is great, and should devise, and carry out, means by which it may do so without inviting, or enduring, fraud or concealment.

Failure to do this is, in my opinion, attributable both to general laxity as regards payroll auditing on the part of the manager and particularly to the retention of a general accountant who had interests in an outside accounting business and who also is shown by the evidence taken by you, to be a bribe-giver and bribe-taker.

Stricter general management, with an honest and able general accountant, free from outside affiliations, will readily remedy these conditions.

BROKERAGE AND MEDICAL EXPLOITATIONS

Though the State Fund does not pay, or allow, commissions upon premiums to brokers or agents, a single brokerage exploitation, the Wynkoop Service, has attached itself to the State Fund, deriving in all, as shown by the evidence before you, about \$112,000, composed of about \$74,000 diverted to it for guaranteeing medical service and about \$39,000 understood to have been withheld by it from dividends paid by the State Fund to policyholders, having contracts with it, by remittance, or allowance, in care of the Wynkoop Service.

This whole transaction, by reason of recognition by the State Fund of such arrangement, had created an atmosphere of favor and of attempts to obtain favor, which was most unfortunate. Obviously, the State Fund should deal only, and directly, with its insured employers in matters which interest them, in no way recognizing the right of an interested broker to act for them.

In like manner, an exploitation of medical service, by Dr. Meyer Wolff, has been permitted to intervene between the physicians who actually perform the service and the State Fund, to such a degree that, during the first six months of 1919, compensation was payable to Dr. Wolff by the State Fund, at the rate of about \$75,000 per annum—about 40 per cent of the fees for that period.

Both better service and cheaper service are alleged; but obviously the State Fund should deal directly with its physicians and such an exploitation cannot be tolerated. It is plainly the duty of the State Fund and of the medical societies of this state to find a workable method by which the best service, at the lowest cost consistent with the best service being rendered, can be secured.

The present conditions are offensive to the public's sense of what should obtain in a publicly conducted fund, and to the medical profession's ethical standards.

It has also caused this exploiting physician to show, very naturally, great interest in the matter of who should be appointed medical adviser of the State Fund — certainly a condition to be avoided, at all hazards.

SELF-INSURERS BY PERMISSION OF THE COMMISSION

In all 384 employers have deposited the securities required and received permission to carry their own insurance; of these 358 are still so licensed. Five withdrew to insure in stock companies, four to insure in mutual companies, five to insure in the State Fund and twelve because either withdrawing from business or merging with another business.

The deposits required were equal to a six months' premium in the State Fund, computed upon the pay-roll at the time application was made; under this requirement, \$5,713,125 in securities are on deposit. Of this, \$3,490,000 was deposited the first six months, and the average deposit has been about \$4,600,000. The minimum and maximum deposit requirement, however, render it unlikely that this represents a close approximation to the correct amount of premiums; but, assuming it notwithstanding to be such the insurance company premiums, which were then one-eleventh higher, would have been \$3,800,000 in round numbers, the first six months, and the premiums in the year 1918 would also have been 60 per cent higher on account of increased wages, i. e., \$9,900,000 in round numbers for six months, and \$19,800,000 for the year 1918.

This is doubtless too low, also, because of the great industrial increase and also because rates of premiums have been much

increased. Indeed, \$25,000,000 may probably be more nearly the figure represented by the premiums that the self-insurers would have paid in 1918, had they been insured in the insurance companies. This in comparison with the total of \$32,296,061 premiums for that year.

That is, under a compulsory insurance law, no less than 45 per cent of the entire volume of workmen's compensation is, by reason of this privilege, not guaranteed by insurance at all. This is due to the very largest enterprises being self-insurers.

Some of these self-insurers are now in receivers' hands.

In my opinion the reserves which should be carried to provide for the compensation payable injured workmen (and the dependents of those who were killed) of these self-insurers, are considerably in excess of \$25,000,000.

Payments to disabled or dependent persons which may, and in some cases will, continue for very long periods, 50 years or even 75 years, are to be made by these self-insurers.

That the claims are preferred debts does not insure the punctual, regular, unfailing payment, needed to prevent bitter distress.

These self-insurers as a rule set up no reserves for losses and set aside no trustee securities to assure their payment. They have, as a class, fought to the last ditch even the requirement to deposits with the State Fund, in trust, the commuted value of permanent disability, widows' and orphans' and long-term partial disability losses; and will, of course, also resist, in like manner, the new effort of the Commission to bring the deposits up to what is necessary to assure the payment of compensation.

Some of them have introduced excellent means of prevention; but what they do in this regard is neither extended to others by reason of the visit of safety engineers of the Fund to different plants, including theirs, nor by demonstration of the advantage in resultant lower rates or bigger dividends.

By becoming employers in the State Fund they could benefit by their favorable experience, without avoiding taking their due part in this public matter of encouraging prevention and without asking to be excused from really providing for securing the payment of compensation.

SELF-INSURERS BY REASON OF HAVING VIOLATED THE LAW

In addition to these self-insurers, licensed by the Commission under the provisions of the law, who are usually, when licensed, financially strong and are extensive employers of workmen, there are literally thousands of employers — one investigation indicated more than 15,000 — usually financially weak and often irresponsible and employing few workmen, who violate the law by failing to insure.

They thus become under the law self-insurers, directly liable, and are also, under the law, guilty of a misdemeanor. Until very recently, they were, however, rarely prosecuted; and it is doubtful that prosecution will do much to obviate this evil.

The Workmen's Compensation Law, it should be said again, was enacted to make provision, beyond a peradventure, for injured workmen and the dependents of workmen who die of their injuries. To leave the workmen employed by any of these employers who do not insure and who may not be financially responsible, without such provision is, by so much, a failure to accomplish this public purpose.

Unquestionably, the law should be amended to make insurance in the State Fund attach automatically through the mere fact of an employer engaging in carrying on one of the specified employments, to the end that provision for injured employees and dependents shall in no event fail. Provision for the collection of premiums by a summary process, like taxes, should also be made, and penalties be added for failure to pay premiums promptly.

By this means, the public purpose can be served, i. e., provision be made, beyond a peradventure, for injured workmen and dependents of workmen who die of their injuries, in all cases, and without plunging small employers, often ignorant of the law and the duties imposed upon them, into financial ruin, which the award for a single injury or death now often does.

PROVISIONS FOR COMPULSION TO PAY PREMIUMS

The Workmen's Compensation Law now makes provision for collection of premiums, due the State Fund, by summary process in an action brought by the Attorney-General, upon premiums in default of being referred to him for collection.

This has not, so far, amounted to much—in good part through failure of the Commission to refer such matters promptly to the Attorney-General. It is doubtful, however, whether that over-worked officer, busy with big matters, can readily function so as to collect expeditiously all sorts of sums, big and little.

Ought not the local tax collectors and the summary means of collecting other taxes—for this certainly is a special excise tax in nature—to be utilized?

That is the process in other countries and has proved most effectual of all the methods employed.

GENERAL CONCLUSIONS

The wastefulness of insurance in insurance companies of the payment of compensation is demonstrated by this investigation.

In four and one-half years more than \$18,000,000 has been paid the nonparticipating stock companies, alone, over and above what it would have cost in the publicly conducted State Fund.

[No less than $17\frac{1}{2}$ per cent of the \$62,000,000 in premiums collected by these companies, being an aggregate of over \$10,500,000, was paid in commissions, which, in view of the ^{fact} purpose that insurance ~~shall be~~ compulsory, is a waste of money except from the standpoint of the agent who gets the commission for inducing employers to “insure in my company” instead of “the other agent’s company.”]

Reserves of at least \$40,000,000, held by insurance companies, both stock and mutual, to secure the payment of compensation to injured workmen and the dependents of those who have died of their injuries, ought to be in the custody of the State of New York, in trustee securities, as a sacred trust for this high purpose. [The failure of one stock insurance company has already caused great, and to a considerable extent, irremediable distress. The assurance that such provision for the helpless will be surely and promptly forthcoming ought not to be entrusted to private corporations.]

This should be the more obvious in that the larger part of these reserves are maintained without the State by insurance companies which, if wound up, would be under the jurisdiction and control of the laws and the courts of the States in which they

were incorporated. There is good reason, indeed, even as regards a New York company, and better reason as regards all others.

As regards insurance companies, compensation claims have no preference over those of other creditors. The insured employers, however, become personally liable. But that fact does not insure prompt and regular payment of the compensation nor, if the employer is not financially responsible, the payment of compensation at all; and it is an unnecessary and undeserved hardship for the employers, thus compelled to respond after having once paid in full for the protection.

The law should be made explicit that insurance companies and self-insurers be required to deposit the present value of compensation in permanent disability, widows' and children's and other long term awards.

The grave undesirability of permitting self-insurance, either under the law or in violation of the law, is also demonstrated. As regards self-insurers by permission, whose average deposit, \$4,600,000 in round numbers, is about six months' premiums for these employers at State Fund rates, at least \$25,000,000 in reserves are needed to provide the compensation payable to their injured workmen and the dependents of their workmen who have died from their injuries. This, also, should be in the custody of the State of New York, in trustee securities, as a sacred trust for this high purpose. There are already failures among them and, while these claims are preferred, that does not assure the payment of compensation promptly and regularly.

The usefulness of mutuality is demonstrated. There have been substantial savings to policyholders in both participating stock insurance companies, owned by employers, and in mutual insurance companies, the combined losses and expenses in 1918 being in the former only 61 per cent of the earned premiums and in the latter only 64 per cent. Yet the most conclusive demonstration of the benefits of mutuality was in the State Fund where the combined losses and expenses for 1918 were only 47 per cent of the premiums computed at insurance company rates.

The solution of these difficulties which would remove all the causes of waste and under-payment is, in my opinion, to make insurance in the State Fund obligatory upon all employers, auto-

matically attaching, and provide for the assessment and collection of premiums from these employers by summary processes like other taxes. At the same time, the management of the State Fund should be made more representative of insured employers, more directly responsible to them and more responsive to their requirements; and provision should also be made for the fullest co-operation in the portions of the administration of the Workmen's Compensation Law in which they are interested of recognized organizations of employers, workmen, safety engineers, compensation insurance experts and physicians, in order to secure greater economy and efficiency, juster determination and prompter payment of compensation, better prevention and more effective medical care and rehabilitation.

In case a complete solution is not possible at the coming session of the Legislature, these organizations should, in any case, be invited to help work out the best practicable means of coördination and systematization of these important activities, under a revision of the present provisions of the law which should, at the very least, provide for automatic insurance in the State Fund unless insuring elsewhere, for summary collection of such premiums like other taxes, for more representative and responsive management of the State Fund and for the deposit by all insurance companies and self-insurers of the present value of all permanent disability and widows' and orphans' losses to assure their regular punctual and full payment beyond a peradventure.

Respectfully submitted,

MILES M. DAWSON, F.A.S., F.I.A.,
Consulting Actuary.

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